

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FIFTY-SIXTH DAY — FRIDAY, APRIL 25, 2003

The house met at 11:55 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 349).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Isett.

LEAVES OF ABSENCE GRANTED

On motion of Representative Reyna and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Reyna moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed without objection.

MOTION FOR ONE RECORD VOTE

One motion of Representative Reyna and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 350): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgenuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Isett.

HB 346

HB 387

HB 447

HB 472

HB 567

HB 655

HB 834

HB 874
HB 983
HB 1040
HB 1076
HB 1152
HB 1287
HB 1306
HB 1440
HB 1499
HB 1526
HB 1654
HB 1729
HB 1776
HB 1865
HB 1934
HB 1937
HB 1972
HB 2001
HB 2031
HB 2036
HB 2072
HB 2094
HB 2132
HB 2154
HB 2162
HB 2295
HB 2320
HB 2322
HB 2384
HB 2415
HB 2470
HB 2471
HB 2498
HB 2592

HB 2684

HB 2689

SB 1430

HB 2786

HB 2804

HB 2859

HB 2941

HB 2947

SB 1580

HB 3125

HB 3366

SB 375

SB 491

SB 716

SB 756

SB 761

MOTION TO CONFORM CAPTIONS

Representative Reyna moved to conform the captions of the senate bills taken up in lieu of the house bills to the house bills' caption.

The motion prevailed without objection.

HR 905 - ADOPTED (by Garza)

Representative Garza moved to suspend all necessary rules to take up and consider at this time **HR 905**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 905, Congratulating the students of Seco Mines Elementary School in Eagle Pass for their first-place win in the junior division of the Texas Future Problem Solving Program state championship in the community service category of competition.

HR 905 was adopted without objection.

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
(consideration continued)

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

HB 20

HB 135

HB 253

HB 295

HB 326

HB 327

HB 399

HB 418

HB 736

HB 738

HB 752

HB 798

HB 871

HB 941

HB 1032

HB 1329

HB 1398

HB 1441

HB 1446

HB 1459

HB 1475

HB 1539

HB 1590

HB 1648

HB 1678

HB 1708

HB 1709

HB 1764

HB 1833

HB 1863
HB 1885
HB 1940
HB 1971
HB 1979
HB 2055
HB 2089
HB 2099
HB 2126
HB 2133
HB 2137
HB 2138
HB 2149
HB 2155
HB 2156
HB 2157
HB 2158
HB 2179
HB 2185
HB 2188
HB 2189
HB 2227
HB 2234
HB 2238
HB 2248
HB 2259
HB 2349
HB 2350
HB 2351
HB 2359
HB 2376
HB 2383
HB 2396
HB 2401

HB 2402

HB 2409

HB 2451

HB 2466

HB 2533

HB 2558

HB 2676

HB 2682

HB 2892

HB 2916

HB 2926

HB 3124

HB 3149

HB 3386

HB 3553

HB 3557

SB 151

SB 209

SB 347

SB 354

SB 520

SB 979

MOTION TO CONFORM CAPTIONS

Representative Reyna moved to conform the captions of the senate bills taken up in lieu of the house bills to the house bills' caption.

The motion prevailed without objection.

HR 916 - ADOPTED (by Branch)

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HR 916**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 916, Congratulating Dr. Louis Powers on the occasion of his retirement as principal of Hyer Elementary School in the Highland Park Independent School District.

HR 916 was adopted without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

HB 3613 - PERMISSION TO INTRODUCE

Representative Marchant requested permission to introduce and have placed on first reading **HB 3613**.

A record vote was requested.

Permission to introduce was granted by (Record 351): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgenuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Isett.

Absent — Flores; Puente.

UNFINISHED BUSINESS

The following bill was laid before the house as unfinished business:

CSHB 2292 ON SECOND READING
(by Wohlgemuth and Heflin)

CSHB 2292, A bill to be entitled An Act relating to the provision of health and human services in this state, including the powers and duties of the Health and Human Services Commission and other state agencies; providing penalties.

Amendment No. 9 - Vote Reconsidered

Representative Wohlgemuth moved to reconsider the vote by which Amendment No. 9 was adopted.

The motion to reconsider prevailed.

Amendment No. 21

Representative Wohlgemuth offered the following amendment to Amendment No. 9:

Substitute the following for Amendment No. 9 by Wohlgemuth:

Section 2.09. On page 66, between lines 12 and 13, add new subsections (b), (c), (d), (e), and (f) to read as follows and reletter accordingly:

(b) For purposes of this section, the term "supplemental rebates" shall mean cash rebates paid by a pharmaceutical manufacturer to the State on the basis of quarterly Medicaid utilization data relating to such manufacturer's products, pursuant to a State supplemental rebate agreement negotiated with such manufacturer and approved by the federal government under Section 1927 of the federal Social Security Act.

(c) The commission may enter into a written agreement with a manufacturer to accept certain program benefits in lieu of supplemental rebates, as such term is defined herein, only if:

1) the program benefit yields savings that are at least equal to the amount the manufacturer would have provided under a cash supplemental rebate during the current biennium;

2) the manufacturer annually guarantees and posts a performance bond in the amount of the anticipated savings, as described in subdivision (1), prior to entering into the agreement, with a guarantee that the manufacturer will forfeit the bond to the state if the anticipated savings are not achieved for that year; and

3) the program benefit is in addition to other program benefits currently offered by the manufacturer to recipients of medical assistance or related programs.

(d) For the purposes of this section, a program benefit means is a disease management programs authorized under this title, a drug product donation programs, drug utilization control programs, prescriber and beneficiary counseling and education, fraud and abuse initiatives, and other services or administrative investments with guaranteed savings to a program operated by a health and human service agency.

(e) Other than as required to satisfy the provisions of this section, such program investments shall be deemed an alternative to, and not the equivalent of, supplemental rebates and shall be treated in the State's submissions to the federal government (including, as appropriate, waiver requests and quarterly Medicaid claims) so as to maximize the availability of federal matching payments.

(f) Agreements by the commission to accept program benefits as defined by this section:

(1) may not prohibit the commission from entering into similar agreements related to different drug classes with other entities;

(2) shall be limited to a time period expressly determined by the commission;

(3) shall be determined by the commission to provide anticipated savings to the state in an amount at least equal to the amount the manufacturer would have provided under a cash supplemental rebate during the current biennium;

(4) may only cover products that have received approval by the Federal Drug Administration at the time of the agreement, and new products approved after the agreement may be incorporated only under an amendment to the agreement."

Amend proposed **CSHB 2292**, in Section 2.09 of the bill, in proposed Sec. 531.070, Government Code by adding a new subsection (3) on page 67, line 11 to read as follows:

(3) Other program benefits as specified in subsection (b).

Amend proposed **CSHB 2292**, in Section 2.11 of the bill, in proposed Sec. 531.072, Government Code by adding a new subsection (4) on page 69, line 3 to read as follows:

(4) "Program benefit offerings solely or in conjunction with rebates and other pricing information."

Amend proposed **CSHB 2292**, in Section 2.13 of the bill, in proposed Sec. 531.074(h), Government Code on page 73, line 4, by striking "~~of~~" and inserting the following between "cost-effectiveness" and "a":

"and any program benefit associated with"

Amendment No. 21 was adopted without objection.

Amendment No. 9, as amended, was adopted without objection.

Amendment No. 22

Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.06. On page 65, line 1, after the "." insert

(g) In performing the duties under this section, the commission may design and implement a program to improve and monitor clinical and functional outcomes of a recipient of services under the state child health plan or medical assistance program. The program may use financial, clinical, and other criteria based on pharmacy, medical services, and other claims data related to the child

health plan or the state medical assistance program. The commission must report to the committee on the fiscal impact, including any savings associated with the strategies utilized under this section.

Amendment No. 22 was adopted without objection.

Amendment No. 23

Representatives Wohlgemuth and Heflin offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 97, line 17, after "below" strike "150" and insert "165"

Insert a new section appropriately numbered as follows:

SECTION 2.36. Section 62.002, Health and Safety Code, is amended to read as follows:

(4) "Net family income" means the amount of income established for a family after reduction for offsets, not to exceed 5% of the amount of net family income, for expenses such as child care and work-related expenses [~~in accordance with standards applicable under the Medicaid program~~].

Amendment No. 24

Representatives Eiland and Alonzo offered the following amendment to Amendment No. 23:

Amend Amendment No. 23 by Wohlgemuth to **CSHB 2292** by adding the following appropriately numbered item to the amendment:

() On page 97, line 12, strike "The" and substitute "Unless different income eligibility levels are prescribed by the General Appropriations Act, the [~~The~~]

Amendment No. 24 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of personal business:

E. Jones on motion of Madden.

(Speaker in the chair)

CSHB 2292 - (consideration continued)

Amendment No. 25

Representative Uresti offered the following amendment to Amendment No. 23:

Amend appropriate provisions of Amendment No. 23 to read as follows:

SECTION 2.36. On page 97, line 17, after "below" strike "~~150~~" and substitute "200"

On page 97, line 19, after "program." insert:

On page 98, line 1, after "level" strike "or enrollment exceeds the number of children authorized to be enrolled in the child health plan under the General Appropriations Act.".

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 29 and Senate List No. 19).

CSHB 2292 - (consideration continued)

Representative Wohlgenuth moved to table Amendment No. 25.

A record vote was requested.

The motion to table prevailed by (Record 352): 79 Yeas, 65 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgenuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Brown, F.; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Haggerty; Hochberg; Hodge; Homer; Hopson; Hunter; Jones, J.; Kuempel; Laney; Lewis; Luna; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Isett; Jones, E.

Absent — Hardcastle; Mabry.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 352. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 352. I intended to vote no.

Keel

CSHB 2292 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSHB 2292** under Rule 4, Section 32(c)(1) of the House Rules on the grounds that the background in the bill analysis is inaccurate.

The speaker overruled the point of order.

Amendment No. 26

Representatives Uresti and Solis offered the following amendment to Amendment No. 23:

Amend the appropriate reference in Amendment No. 23 as follows:

SECTION 2.36. On page 97, line 17, after "below" strike "~~150~~" and substitute "200"

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important family business:

R. Cook on motion of Geren.

CSHB 2292 - (consideration continued)

Representative Wohlgenuth moved to table Amendment No. 26.

A record vote was requested.

The motion to table prevailed by (Record 353): 78 Yeas, 63 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgenuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Brown, F.; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Haggerty; Hamilton; Hardcastle; Hochberg; Hodge; Homer; Hopson; Hughes; Hunter; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cook, R.; Isett; Jones, E.

Absent — Capelo; Dunnam; Ritter; Wise.

STATEMENT OF VOTE

I was shown voting yes on Record No. 353. I intended to vote no.

Keel

Amendment No. 27

Representatives Uresti and Solis offered the following amendment to Amendment No. 23:

Amend the appropriate reference in Amendment No. 23 to read as follows:
SECTION 2.36. On page 97, line 17, after "below" strike "~~150~~" and substitute "175"

(Woolley in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Turner on motion of Giddings.

CSHB 2292 - (consideration continued)

Amendment No. 27 was withdrawn.

Amendment No. 23, as amended, was adopted without objection.

Amendment No. 28

Representatives Wohlgemuth and Heflin offered the following amendment to **CSHB 2292**:

Strike Section 2.72 and insert a new section 2.72 to read as follows:

SECTION 2.72. Section 32.0261, Human Resources Code, is amended to read as follows:

§ 32.0261. Continuous Eligibility. The department shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of:

(1) ~~the first anniversary of the date~~ six months from the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

Amendment No. 28 was adopted without objection.

Amendment No. 29

Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 122, add new subsection (c) and renumber accordingly:

"(c) The Health and Human Service Commission, or any health and human services agency, as defined by Section 531.001, Government Code, may deny medical assistance for an individual, to the extent allowed by federal law, who is eligible for financial assistance but to whom that assistance is not paid because of the individual's failure to cooperate. Medical assistance to the person's family may not be denied for the individual's failure to cooperate. This subsection prohibits the denial of medical assistance to persons receiving assistance under Chapter 31 under the age of 19, pregnant adults and any other person who may not be denied medical assistance under federal law.

A record vote was requested.

Amendment No. 29 was adopted by (Record 354): 78 Yeas, 60 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Jones, D.; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Bailey; Burnam; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Haggerty; Hardcastle; Hochberg; Hodge; Homer; Hopson; Hughes; Jones, J.; Keel; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Stick; Telford; Thompson; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Woolley(C).

Absent, Excused — Cook, R.; Isett; Jones, E.; Turner.

Absent — Canales; Dutton; Edwards; Goodman; Oliveira.

Amendment No. 30

Representative Villarreal offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) Throughout the bill, strike "Department of Protective and Regulatory Services" each time it appears, regardless of whether the text is underlined or capitalized, and substitute "Department of Protective Services", underlined or capitalized as appropriate.

(2) Throughout the bill, strike "Protective and Regulatory Council" each time it appears, regardless of whether the text is underlined or capitalized, and substitute "Protective Services Council", underlined or capitalized as appropriate.

(3) Throughout Article 1 of the bill, strike "Department of Aging, Community, Disability, and Long-Term Care Services" each time it appears, regardless of whether the text is underlined or capitalized, and substitute "Department of Supportive Services", underlined or capitalized as appropriate.

(4) Throughout Article 1 of the bill, strike "Aging, Community, Disability, and Long-Term Care Council" each time it appears, regardless of whether the text is underlined or capitalized, and substitute "Supportive Services Council", underlined or capitalized as appropriate.

(5) Add the following appropriately numbered section to Article 1 of the bill and renumber existing sections of the bill accordingly:

SECTION _____. A reference in law to the Department of Protective and Regulatory Services means the Department of Protective Services.

Amendment No. 30 was adopted without objection.

Amendment No. 31

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered SECTION to Article 1 of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 531.005, Government Code, is amended to read as follows:

Sec. 531.005. ELECTION AND TERM OF COMMISSIONER. [(*)] The commission is governed by a commissioner of health and human services, who is elected at the general election for state and county officers for a term of four years [~~appointed by the governor with the advice and consent of the senate.~~

~~[(b) The commissioner shall be appointed without regard to race, color, disability, sex, religion, age, or national origin].~~

(b) Sections 531.006 and 531.007, Government Code, are repealed.

Representative Chisum moved to table Amendment No. 31.

A record vote was requested.

The motion to table prevailed by (Record 355): 84 Yeas, 53 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Gutierrez; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant;

McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Bailey; Burnam; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ellis; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Haggerty; Hochberg; Hodge; Hopson; Jones, J.; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Telford; Thompson; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Woolley(C).

Absent, Excused — Cook, R.; Isett; Jones, E.; Turner.

Absent — Canales; Casteel; Chisum; Goodman; Moreno, P.; Swinford.

HR 796 - ADOPTED

(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 796**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 796, Honoring Proyecto Azteca of San Juan for its service to colonia residents and migrant families.

HR 796 was adopted without objection.

On motion of Representative Chavez, the names of all the members of the house were added to **HR 796** as signers thereof.

RESOLUTIONS REFERRED TO COMMITTEES CORRECTIONS IN REFERRAL

Resolutions were at this time laid before the house and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 2.)

CSHB 2292 - (consideration continued)

Amendment No. 32

Representative Truitt offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 4, line 13, strike "and" and substitute "[~~and~~]".

(2) On page 5, line 4, between "Section 531.02481" and the period, insert the following:

": and

(5) implement programs intended to prevent family violence and provide services to victims of family violence".

- (3) On page 30, line 5, following the semicolon, insert "and".
- (4) On page 30, strike lines 6 and 7.
- (5) On page 30, line 8, strike "(6)" and substitute "(5)".
- (6) On page 48, line 21, strike "and".
- (7) On page 48, line 23, following the semicolon, insert "and".
- (8) On page 48, between lines 23 and 24, insert the following:

"(D) preventing family violence and providing services to victims of family violence;"

(9) On page 53, lines 13 through 15, strike ", including those related to preventing family violence and providing services to victims of family violence".

(10) On page 124, line 11, strike "A person" and substitute "Except as provided by a waiver or modification granted under Section 31.0322, a person".

Amendment No. 32 was adopted without objection.

Amendment No. 33

Representative Gattis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

- (1) On page 11, strike lines 4-6 and substitute the following:

(2) the office of inspector general to conduct audits and perform fraud and abuse investigation and enforcement functions as provided by Subchapter C and other law;

- (2) On page 48, line 21, strike "and".

- (3) On page 48, line 23, immediately following the semicolon, insert "and".

- (4) On page 48, between lines 23 and 24, insert the following:

(D) the Texas Department of Human Services office of inspector general;

- (5) On page 50, between lines 19 and 20, insert the following:

(f) All powers, duties, functions, programs, and activities relating to audits, including internal audits, transferred to the Health and Human Services Commission under Subsection (a)(1) of this section, and all powers, duties, functions, programs, and activities relating to the Texas Department of Human Services office of inspector general transferred to the Health and Human Services Commission under Subsection (a)(2)(D) of this section, shall be assumed by the commission's office of inspector general. Notwithstanding any other provision of law, a reference in law to the Texas Department of Human Services office of inspector general means the commission's office of inspector general.

- (6) Add the following appropriately numbered sections to Article 2 of the bill:

SECTION _____. The heading to Subchapter C, Chapter 531, Government Code, is amended to read as follows:

SUBCHAPTER C. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES

~~[WELFARE]~~ FRAUD, ABUSE, OR OVERCHARGES

SECTION _____. Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.1011 to read as follows:

Sec. 531.1011. DEFINITIONS. For purposes of this subchapter:

(1) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person, including any act that constitutes fraud under applicable federal or state law.

(2) "Hold on payment" means the temporary denial of reimbursement under the Medicaid program for items or services furnished by a specified provider.

(3) "Practitioner" means a physician or other individual licensed under state law to practice the individual's profession.

(4) "Program exclusion" means the suspension of a provider from being authorized under the Medicaid program to request reimbursement for items or services furnished by that specific provider.

(5) "Provider" means a person, firm, partnership, corporation, agency, association, institution, or other entity that was or is approved by the commission to:

(A) provide medical assistance under contract or provider agreement with the commission; or

(B) provide third-party billing vendor services under a contract or provider agreement with the commission.

(7) Strike SECTION 2.15 of the bill (page 74, line 13, through page 75, line 15) and substitute the following appropriately numbered section:

SECTION _____. (a) Section 531.102, Government Code, is amended to read as follows:

Sec. 531.102. ~~[INVESTIGATIONS AND ENFORCEMENT]~~ OFFICE OF INSPECTOR GENERAL. (a) The commission, through the commission's office of inspector general ~~[investigations and enforcement]~~, is responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services. The commission may obtain any information or technology necessary to enable the office to meet its responsibilities under this subchapter or other law.

(a-1) The governor shall appoint an inspector general to serve as director of the office. The inspector general serves a one-year term that expires on February 1.

(b) The commission, in consultation with the inspector general, shall set clear objectives, priorities, and performance standards for the office that emphasize:

(1) coordinating investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of the attorney general in accordance with Section 531.103.

(c) The commission shall train office staff to enable the staff to pursue priority Medicaid and other health and human services ~~[welfare]~~ fraud and abuse cases as necessary.

(d) The commission may require employees of health and human services agencies to provide assistance to the office [commission] in connection with the office's [commission's] duties relating to the investigation of fraud and abuse in the provision of health and human services. The office is entitled to access to any information maintained by a health and human services agency, including internal records, relevant to the functions of the office.

(e) The commission, in consultation with the inspector general, by rule shall set specific claims criteria that, when met, require the office to begin an investigation.

(f)(1) If the commission receives a complaint of Medicaid fraud or abuse from any source, the office must conduct an integrity review to determine whether there is sufficient basis to warrant a full investigation. An integrity review must begin not later than the 30th day after the date the commission receives a complaint or has reason to believe that fraud or abuse has occurred. An integrity review shall be completed not later than the 90th day after it began.

(2) If the findings of an integrity review give the office reason to believe that an incident of fraud or abuse involving possible criminal conduct has occurred in the Medicaid program, the office must take the following action, as appropriate, not later than the 30th day after the completion of the integrity review:

(A) if a provider is suspected of fraud or abuse involving criminal conduct, the office must refer the case to the state's Medicaid fraud control unit, provided that the criminal referral does not preclude the office from continuing its investigation of the provider, which investigation may lead to the imposition of appropriate administrative or civil sanctions; or

(B) if there is reason to believe that a recipient has defrauded the Medicaid program, the office may conduct a full investigation of the suspected fraud.

(g)(1) In addition to other instances authorized under state or federal law, the office shall impose without prior notice a hold on payment of claims for reimbursement submitted by a provider to compel production of records or when requested by the state's Medicaid fraud control unit, as applicable. The office must notify the provider of the hold on payment not later than the fifth working day after the date the payment hold is imposed.

(2) The office shall, in consultation with the state's Medicaid fraud control unit, establish guidelines under which holds on payment or program exclusions:

(A) may permissively be imposed on a provider; or

(B) shall automatically be imposed on a provider.

(3) Whenever the office learns or has reason to suspect that a provider's records are being withheld, concealed, destroyed, fabricated, or in any way falsified, the office shall immediately refer the case to the state's Medicaid fraud control unit. However, the criminal referral does not preclude the office from continuing its investigation of the provider, which investigation may lead to the imposition of appropriate administrative or civil sanctions.

(h) In addition to performing functions and duties otherwise provided by law, the office may:

(1) assess administrative penalties otherwise authorized by law on behalf of the commission or a health and human services agency;

(2) request that the attorney general obtain an injunction to prevent a person from disposing of an asset identified by the office as potentially subject to recovery by the office due to the person's fraud or abuse;

(3) provide for coordination between the office and special investigative units formed by managed care organizations under Section 531.113 or entities with which managed care organizations contract under that section;

(4) audit the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or state agency receiving the funds from a health and human services agency;

(5) conduct investigations relating to the funds described by Subdivision (4); and

(6) recommend policies promoting economical and efficient administration of funds described by Subdivision (4) and the prevention and detection of fraud and abuse in administration of those funds.

(i) Notwithstanding any other provision of law, a reference in law or rule to the commission's office of investigations and enforcement means the office of inspector general established under this section.

(b) As soon as possible after the effective date of this section, the governor shall appoint a person to serve as inspector general in accordance with Section 531.102, Government Code, as amended by this section. The initial term of the person appointed in accordance with this subsection expires February 1, 2005.

(8) Strike page 75, line 18, through page 76, line 10, and substitute the following:

Sec. 531.1021. SUBPOENAS. (a) The office of inspector general may request that the commissioner or the commissioner's designee approve the issuance by the office of a subpoena in connection with an investigation conducted by the office. If the request is approved, the office may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the office, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(e) The office shall pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the office may charge for copies of its records.

(f) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103.

(g) All information and materials subpoenaed or compiled by the office in connection with an investigation are confidential and not subject to disclosure under Chapter 552, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the office or its employees or agents involved in the investigation conducted by the office, except that this information may be disclosed to the office of the attorney general and law enforcement agencies.

(9) Strike SECTION 2.17 of the bill (page 76, line 11, through page 79, line 27) and substitute the following appropriately numbered section:

SECTION _____. (a) Section 531.103, Government Code, is amended to read as follows:

Sec. 531.103. INTERAGENCY COORDINATION. (a) The commission, acting through the commission's office of inspector general, and the office of the attorney general shall enter into a memorandum of understanding to develop and implement joint written procedures for processing cases of suspected fraud, waste, or abuse, as those terms are defined by state or federal law, or other violations of state or federal law under the state Medicaid program or other program administered by the commission or a health and human services agency, including the financial assistance program under Chapter 31, Human Resources Code, a nutritional assistance program under Chapter 33, Human Resources Code, and the child health plan program. The memorandum of understanding shall require:

(1) the office of inspector general [~~commission~~] and the office of the attorney general to set priorities and guidelines for referring cases to appropriate state agencies for investigation, prosecution, or other disposition to enhance deterrence of fraud, waste, [~~or~~] abuse, or other violations of state or federal law, including a violation of Chapter 102, Occupations Code, in the programs [~~program~~] and maximize the imposition of penalties, the recovery of money, and the successful prosecution of cases;

(1-a) the office of inspector general to refer each case of suspected provider fraud, waste, or abuse to the office of the attorney general not later than the 10th business day after the date the office of inspector general determines that the existence of fraud, waste, or abuse is reasonably indicated;

(1-b) the office of the attorney general to take appropriate action in response to each case referred to the attorney general, which action may include direct initiation of prosecution or civil litigation or referral to an appropriate United States attorney, a district attorney, a county attorney, or a collections agency for initiation of prosecution, civil litigation, or other appropriate action;

(2) the office of inspector general [~~commission~~] to keep detailed records for cases processed by that office [~~the commission~~] or the office of the attorney general, including information on the total number of cases processed and, for each case:

(A) the agency and division to which the case is referred for investigation;

(B) the date on which the case is referred; and

(C) the nature of the suspected fraud, waste, or abuse;

(3) the office of inspector general ~~[commission]~~ to notify each appropriate division of the office of the attorney general of each case referred by the office of inspector general ~~[commission]~~;

(4) the office of the attorney general to ensure that information relating to each case investigated by that office is available to each division of the office with responsibility for investigating suspected fraud, waste, or abuse;

(5) the office of the attorney general to notify the office of inspector general ~~[commission]~~ of each case the attorney general declines to prosecute or prosecutes unsuccessfully;

(6) representatives of the office of inspector general ~~[commission]~~ and of the office of the attorney general to meet not less than quarterly to share case information and determine the appropriate agency and division to investigate each case; and

(7) the office of inspector general ~~[commission]~~ and the office of the attorney general to submit information requested by the comptroller about each resolved case for the comptroller's use in improving fraud detection.

(b) An exchange of information under this section between the office of the attorney general and the commission, the office of inspector general, or a health and human services agency does not affect whether the information is subject to disclosure under Chapter 552.

(c) The commission and the office of the attorney general shall jointly prepare and submit a semiannual report to the governor, lieutenant governor, ~~[and]~~ speaker of the house of representatives, and comptroller concerning the activities of those agencies in detecting and preventing fraud, waste, and abuse under the state Medicaid program or other program administered by the commission or a health and human services agency. The report may be consolidated with any other report relating to the same subject matter the commission or office of the attorney general is required to submit under other law.

(d) The commission and the office of the attorney general may not assess or collect investigation and attorney's fees on behalf of any state agency unless the office of the attorney general or other state agency collects a penalty, restitution, or other reimbursement payment to the state.

(e) In addition to the provisions required by Subsection (a), the memorandum of understanding required by this section must also ensure that no barriers to direct fraud referrals to the office of the attorney general's Medicaid fraud control unit or unreasonable impediments to communication between Medicaid agency employees and the Medicaid fraud control unit are imposed, and must include procedures to facilitate the referral of cases directly to the office of the attorney general. ~~[The commission shall refer a case of suspected fraud, waste, or abuse under the state Medicaid program to the appropriate district attorney, county attorney, city attorney, or private collection agency if the attorney general fails to act within 30 days of referral of the case to the office of the attorney general. A failure by the attorney general to act within 30 days constitutes approval by the attorney general under Section 2107.003.]~~

(f) A [The] district attorney, county attorney, city attorney, or private collection agency may collect and retain costs associated with a [the] case referred to the attorney or agency in accordance with procedures adopted under this section and 20 percent of the amount of the penalty, restitution, or other reimbursement payment collected.

(b) Not later than December 1, 2003, the office of the attorney general and the Health and Human Services Commission shall amend the memorandum of understanding required by Section 531.103, Government Code, as necessary to comply with that section, as amended by this section.

(10) Add the following appropriately numbered section to Article 2 of the bill:

SECTION _____. Section 531.104(b), Government Code, is amended to read as follows:

(b) The memorandum of understanding must specify the type, scope, and format of the investigative support provided to the attorney general under this section ~~[provide that the commission is not required to provide investigative support in more than 100 open investigations in a fiscal year].~~

(11) Add the following appropriately numbered section to Article 2 of the bill:

SECTION _____. Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.116 to read as follows:

Sec. 531.116. COMPLIANCE WITH LAW PROHIBITING SOLICITATION. A provider who furnishes services under the Medicaid program or child health plan program is subject to Chapter 102, Occupations Code, and the provider's compliance with that chapter is a condition of the provider's eligibility to participate as a provider under those programs.

(12) On page 83, line 8, strike "investigations and enforcement" and substitute "inspector general".

(13) On page 83, line 15, strike "investigations and enforcement" and substitute "inspector general".

(14) On page 84, line 10, strike "investigations and enforcement" and substitute "inspector general".

(15) On page 84, lines 18 and 19, strike "investigations and enforcement" and substitute "inspector general".

(16) On page 136, line 8, strike "an irregularity" and substitute "a pattern of suspected fraud or abuse involving criminal conduct".

(17) Add the following appropriately numbered sections to Article 2 of the bill:

SECTION _____. Section 31.03, Penal Code, is amended by adding Subsection (j) to read as follows:

(j) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

SECTION _____. Section 32.45, Penal Code, is amended by adding Subsection (d) to read as follows:

(d) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

SECTION _____. Section 32.46, Penal Code, is amended by adding Subsection (e) to read as follows:

(e) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

SECTION _____. Section 37.10, Penal Code, is amended by adding Subsection (i) to read as follows:

(i) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

(18) Renumber existing sections of the bill appropriately.

Amendment No. 33 was adopted without objection.

Amendment No. 34

Representative McClendon offered the following amendment to **CSHB 2292**:

Amend **HB 2292** as follows:

On page 14, line 9, add "with the advice and consent of the senate" after "governor".

On page 18, line 19, add "with the advice and consent of the senate" after "governor".

On page 31, line 16, add "with the advice and consent of the senate" after "governor".

On page 37, line 6, add "with the advice and consent of the senate" after "governor".

Amendment No. 34 was adopted without objection.

Amendment No. 35

Representative McClendon offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

1. On page 14, after line 22, insert subsection (f) to read as follows:

"(f) A majority of the members of the council constitute a quorum for the transaction of business"

2. On page 19, after line 4, insert subsection (f) to read as follows:

"(f) A majority of the members of the council constitute a quorum for the transaction of business"

3. On page 32, after line 3, insert subsection (f) to read as follows:

"(f) A majority of the members of the council constitute a quorum for the transaction of business"

4. On page 37, after line 18, insert subsection (f) to read as follows:

"(f) A majority of the members of the council constitute a quorum for the transaction of business"

Amendment No. 35 was adopted without objection.

Amendment No. 36

Representative Edwards offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 15, line 1, following the underlined period, insert "Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.".

(2) On page 19, line 10, following the underlined period, insert "Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.".

(3) On page 32, line 26, between "council." and "[~~H~~]", insert "Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.".

(4) On page 37, line 24, following the underlined period, insert "Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.".

(5) On page 46, line 11, between "DIRECTORS." and "As soon", insert "(a)".

(6) On page 46, between lines 20 and 21, insert the following:

(b) The governor shall make the appointments of the executive directors required by this section so that the ethnic diversity of this state is reflected in those appointments.

Amendment No. 36 was adopted without objection.

Amendment No. 37

On behalf of Representative Dukes, Representative Luna offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 18, line 22, between "substance abuse," and "deafness," by inserting "early childhood intervention services,".

Amendment No. 37 was adopted without objection.

Amendment No. 38

Representative Raymond offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 21, line 23, between "TESTIMONY." and "The", insert "(a)".

(2) On page 21, line 25, strike "council" and substitute "commission".

(3) On page 21, immediately following line 27, insert the following:

(b) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

- (1) at least 25 persons;
- (2) a governmental entity; or
- (3) an association with at least 25 members.

(c) The commissioner shall consider fully all written and oral submissions about a proposed rule.

(4) On page 31, line 5, between "Sections" and "40.021", insert "40.004".

(5) On page 31, between lines 7 and 8, insert the following:

Sec. 40.004. PUBLIC INTEREST INFORMATION AND PUBLIC ACCESS. (a) The commissioner ~~[board]~~ shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission or commissioner ~~[board]~~ and to speak on any issue under the jurisdiction of the department.

(b) The commissioner, with the advice of the council, ~~[department]~~ shall prepare information of public interest describing the functions of the department. The commission ~~[department]~~ shall make the information available to the public and appropriate state agencies.

(c) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

- (1) at least 25 persons;
- (2) a governmental entity; or
- (3) an association with at least 25 members.

(d) The commissioner shall consider fully all written and oral submissions about a proposed rule.

(6) On page 40, line 10, between "TESTIMONY." and "The", insert "(a)".

(7) On page 40, line 12, strike "council" and substitute "commission".

(8) On page 40, between lines 14 and 15, insert the following:

(b) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

- (1) at least 25 persons;
- (2) a governmental entity; or
- (3) an association with at least 25 members.

(c) The commissioner shall consider fully all written and oral submissions about a proposed rule.

Amendment No. 38 was adopted without objection.

Amendment No. 39

Representative Delisi offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** page 25, lines 16-17 in SUBCHAPTER D, Sec. 1001.071 (1) as follows:

(1) implementing the state's public health care delivery programs under the authority of the department;

Amendment No. 39 was adopted without objection.

Amendment No. 40

Representative Eiland offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 1.09.

On page 26, line 6, strike "administering state programs related to cancer, including the Texas Cancer Plan;"

SECTION 1.19.

On page 51, line 11, strike "all powers, duties, functions, programs, and activities of the Texas Cancer Council;"

SECTION 1.25.

On page 60, strike line 3 "the Texas Cancer Council;"

Amendment No. 40 was adopted without objection.

Amendment No. 41

Representative Hupp offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 26, strike line 18 and substitute "regulated by the Department of Aging, Community, Disability, and Long-Term Care Services;"

(2) On page 27, strike lines 16 and 17 and substitute "facilities regulated by the Department of Aging, Community, Disability, and Long-Term Care Services."

(3) On page 30, strike lines 8-12 and substitute:

(6) investigate allegations of abuse or neglect of persons residing in long-term care facilities.

(4) On page 44, line 19, strike "and".

(5) On page 45, line 9, strike the underlined period and substitute:

;

(6) performing all licensing and enforcement activities and functions related to long-term care facilities, including licensing and enforcement activities related to convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code; and

(7) performing all licensing and enforcement activities and functions related to home and community support services agencies under Chapter 142, Health and Safety Code.

(6) On page 48, lines 6-8, strike ", other than those related to licensing and enforcement of regulations regarding long-term care facilities,".

(7) On page 50, lines 24 and 25, strike ", licensing and enforcement of regulations regarding long-term care facilities,".

(8) On page 53, strike lines 18 and 19 and substitute "this article related to the investigation of abuse or neglect of persons residing in long-term care facilities."

(9) On page 55, lines 9 and 10, strike ", licensing and enforcement of regulations regarding long-term care facilities,".

(10) On page 55, line 21, strike the semicolon and substitute ", licensing and enforcing regulations applicable to long-term care facilities, and licensing and enforcing regulations applicable to home and community support services agencies;".

Amendment No. 41 was adopted without objection.

Amendment No. 42

Representative McClendon offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

Amend SECTION 1.15 by adding subsection (d) to read as follows:

"(d) As soon as possible, the governor shall appoint the members of the Health and Human Services Council in accordance with Chapter 531, Government Code, as amended by this article. In making the initial appointments, the governor shall designate three members for terms expiring February 1, 2005, three members for terms expiring February 1, 2007, and three members for terms expiring February 1, 2009."

Amendment No. 42 was adopted without objection.

Amendment No. 43

Representative Raymond offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

- (1) On page 59, between lines 1 and 2, insert the following:
- (h) The council shall fully consider all written and oral submissions made on any matter or issue under the council's jurisdiction.
 - (i) Chapter 551, Government Code, applies to the council.
- (2) On page 59, line 2, strike "(h)" and substitute "(j)".
- (3) On page 59, line 3, between "PLAN." and "The transfer", insert "(a)".
- (4) On page 59, line 16, following the period, insert "The transition plan must be made available to the public."
- (5) On page 59, between lines 16 and 17, insert the following:
 - (b) Not later than November 1, 2003, the Health and Human Services Commission shall hold a public hearing and accept public comment regarding the transition plan required to be developed by the commissioner of health and human services under Subsection (a) of this section.

Amendment No. 43 was adopted without objection.

Amendment No. 44

Representative Garza offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

- (1) On page 59, line 3, between "PLAN." and "The transfer", insert "(a)".
- (2) On page 59, between lines 16 and 17, insert the following:

(b) In developing the transition plan, the commissioner of health and human services shall hold public hearings in various geographic areas in this state before submitting the plan to the governor and the Legislative Budget Board as required by this section.

Amendment No. 45

Representative Villarreal offered the following amendment to Amendment No. 44:

Amend Amendment No. 44 by Garza on page 1, lines 7 and 8, by striking "various geographic areas" and substituting "each of the commission's service areas".

Representative Wohlgemuth moved to table Amendment No. 45.

A record vote was requested.

The motion to table prevailed by (Record 356): 82 Yeas, 59 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Haggerty; Hochberg; Hodge; Homer; Hopson; Jones, J.; Keel; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Telford; Thompson; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Woolley(C).

Absent, Excused — Cook, R.; Isett; Jones, E.; Turner.

Absent — Corte; Moreno, J.

Amendment No. 44 was adopted without objection.

Amendment No. 46

Representative Luna offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** in Article 1 of the bill by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. WORK PLAN FOR HEALTH AND HUMAN SERVICES AGENCIES. (a) The Health and Human Services Commission, the Department of Protective and Regulatory Services, and each health and human services agency created under this article shall implement the powers, duties, functions, programs, and activities assigned to the agency under this article in accordance with a work plan designed by the commission to ensure that the transfer and provision of health and human services in this state are accomplished in a careful and deliberative manner.

(b) A work plan designed by the commission under this section must include the following phases:

(1) a planning phase, during which the agency will focus on and stabilize the organization of the agency's powers, duties, functions, programs, and activities, and which must include:

(A) initiation of recommendations made by the health and human services transition council;

(B) creation of interagency and intra-agency steering committees;

(C) development of global visions, goals, and organizational strategies; and

(D) development of communications and risk management plans;

(2) an integration phase, during which the agency will identify opportunities and problems and design customized solutions for those problems, and which must include:

(A) identification of key issues for the agency relating to the Texas Integrated Eligibility Redesign System, waivers needed from federal agencies, costs, or legal requirements for other agency activities;

(B) planning for daily operations;

(C) validation of fiscal and program synergies;

(D) definition and building of a program management office; and

(E) development of performance measures, related tracking measures and tools, and risk mitigation initiatives;

(3) an optimization phase, during which the agency will complete and expand on the initial health and human services transitions, and which must include:

(A) optimization of initial implementation initiatives;

(B) use of enterprise teaming operations;

(C) building infrastructures to support and facilitate changes in the delivery of health and human services; and

(D) identification and use of beneficial assets management and facilities approaches; and

(4) a transformation phase, during which the agency will continue implementing initial and additional changes to the delivery of health and human services, and which must include:

(A) implementation of changes in agency management activities;

(B) continuation of risk assessments; and

(C) conducting a transformation review of the changes to the delivery of health and human services.

Amendment No. 46 was adopted without objection.

HCR 202 - ADOPTED
(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HCR 202**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 202, Designating May 1, 2003, as Law Day in the State of Texas.

HCR 202 was adopted without objection.

On motion of Representative McClendon, the names of all the members of the house were added to **HCR 202** as signers thereof.

CSHB 2292 - (consideration continued)

Amendment No. 47

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 531.063. CALL CENTER. Add (c) as follows:

(c) The commission shall maintain staff and facilities to perform all other services including, but not limited to, program eligibility functions specified under (a) in such a way that service levels, accessibility for recipients, and timeliness are not reduced from levels existing on or before September 1, 2003.

Representative Wohlgemuth moved to table Amendment No. 47.

The motion to table prevailed.

Amendment No. 48

Representative Olivo offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 531.063. CALL CENTERS. Add the following language:

(c) Translation services. Call centers shall provide translation services as required by federal law for clients unable to speak, hear, or comprehend the English language.

Amendment No. 48 was adopted without objection.

Amendment No. 49

Representative McCall offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 63, line 7, strike "a private entity" and substitute "at least one but not more than four private entities".

(2) On page 63, line 9, strike "with a private entity" and substitute "for the operation of the center".

Amendment No. 50

Representative Deshotel offered the following amendment to Amendment No. 49:

Amend Amendment No. 49 by McCall to **CSHB 2292** by adding the following appropriately numbered item to the amendment and renumbering subsequent items of the amendment accordingly:

() On page 63, between lines 10 and 11, insert the following:

(c) The commission shall develop consumer service and performance standards for the operation of a call center required by this section. The standards shall address a call center's:

(1) ability to serve its consumers in a timely manner, including consideration of the consumers' ability to access the call center, whether the call center has toll-free telephone access, the average amount of time a consumer spends on hold, the frequency of call transfers, whether a consumer is able to communicate with a live person at the call center, and whether the call center makes mail correspondence available;

(2) staff, including employee courtesy, friendliness, training, and knowledge about the programs listed under Section 531.008 (c); and

(3) complaint handling procedures, including the level of difficulty involved in filing a complaint and whether the call center's complaint responses are timely.

(d) The commission shall make available to the public the standards developed under Subsection (c).

(e) The commission shall develop:

(1) mechanisms for measuring consumer service satisfaction; and

(2) performance measures to evaluate whether the call center meets the standards developed under Subsection (c).

(f) The commission may inspect a call center and analyze its consumer service performance through use of a consumer service evaluator who poses as a consumer of the call center.

Amendment No. 50 was adopted without objection.

Amendment No. 49, as amended, was adopted without objection.

Amendment No. 51

Representative Deshotel offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 63, between lines 10 and 11, by inserting the following:

(c) Notwithstanding Subsection (a), the commissioner shall develop and implement policies that provide an applicant for services related to the program listed under Section 531.008(c) with an opportunity to appear in person to establish initial eligibility or to comply with periodic eligibility recertification requirements, if the applicant requests a personal interview. This subsection does not affect a law or rule that requires an applicant to appear in person to establish initial eligibility or to comply with periodic eligibility recertification requirements.

Amendment No. 51 was adopted without objection.

Amendment No. 52

Representative McClendon offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.04 is amended by adding subsection (c) to Sec. 531.063 to read as follows:

"(c) the Health and Human Services Council shall recommend to the commissioner specific customer service satisfaction standards for operation of a call center that address the knowledge and professionalism of call center staff, telephone wait times and other access issues, and complaints handling."

Amendment No. 52 was withdrawn.

Amendment No. 53

Representatives Coleman and Thompson offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** Section 531.067 to read:

(G) The Public Assistance Health Benefit Review and Design Committee, using rebates obtained through negotiations required by Section 531.070, shall establish a pharmaceutical assistance program to provide discounted prescription drugs to Texas working families. The program does not pay for any prescription drug for any program participant, but promotes the use of certain effective prescription drugs by enabling participants to purchase those drugs at a discounted price.

(H) Subject to this section, a person is eligible to participate in the program if the person is a resident of this state and:

(1) is eligible for assistance under the Medicare program; or

(2) has a net family income that is below 200% of the federal poverty level.

(I) A person may not participate in the program if the person is:

(1) eligible for assistance under the Medicaid program; or

(2) covered by an insurance policy or health benefit plan that provides benefits for prescription drugs at a level at least equal to the benefits provided by the program, as determined in accordance with commission rules.

(J) The commission may engage in outreach activities to publicize the availability of discounted prescription drug prices under the program and shall establish simple procedures for enrolling program participants.

Representative Wohlgemuth moved to table Amendment No. 53.

A record vote was requested.

The motion to table prevailed by (Record 357): 80 Yeas, 60 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins;

Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Haggerty; Hamilton; Hochberg; Hodge; Homer; Hopson; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Telford; Thompson; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Woolley(C).

Absent, Excused — Cook, R.; Isett; Jones, E.; Turner.

Absent — Edwards; Hardcastle; Hughes.

Amendment No. 54

Representative Thompson offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292**, as amended, by striking Section 2.09 on page 66, between line 13 and 19 and substituting the following:

(b) Subject to subsection (c), The commission shall negotiate with manufacturers and labelers, including generic manufacturers and labelers, to obtain supplemental rebates for prescription sold in the state. (c) The commission may be contract authorize a private entity to negotiate with manufacturers and labelers on behalf of the commission. may by contract authorize a private entity to negotiate with manufacturers and labelers on behalf of the commission.

Amendment No. 54 was withdrawn.

Amendment No. 55

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 67, line 22 insert the following:

(g) In negotiating terms for a supplemental rebate the Commission shall utilize the Average Manufacturers Price (AMP), as defined in Section 1396r-8(k)(1) of the Omnibus Budget Reconciliation Act of 1990, as the cost basis for the product.

Amendment No. 55 was adopted without objection.

Amendment No. 56

Representative Stick offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 68, line 1, by striking "Information" and substituting "Notwithstanding any other state law, information".

Amendment No. 56 was adopted without objection.

Amendment No. 57

Representative McClendon offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

Amend SECTION 2.10 by adding subsection (c) to Sec. 531.071 to read as follows:

"(c) General information about the aggregate costs of different classes of drugs is not confidential under Subsection (a)."

Amendment No. 57 was adopted without objection.

Amendment No. 58

Representative Rodriguez offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** in Article 2, Section 2.11 on page 69 by adding a new subsection (d) and renumbering remaining subsections accordingly:

(d) Each prescribed drug for treatment of the following illnesses or conditions is exempt from the prior authorization system:

(1) human immunodeficiency virus (HIV) infection;

(2) acquired immune deficiency syndrome (AIDS).

Representative Wohlgemuth moved to table Amendment No. 58.

A record vote was requested.

The motion to table prevailed by (Record 358): 86 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Haggerty; Hochberg; Hodge; Homer; Hopson; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Telford; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Woolley(C).

Absent, Excused — Cook, R.; Isett; Jones, E.; Turner.

STATEMENT OF VOTE

I was shown voting yes on Record No. 358. I intended to vote yes.

Thompson

Amendment No. 59

Representative Rodriguez offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** in Article 2, Section 2.11 on page 69 by adding a new subsection (d) and renumbering remaining subsections accordingly:

(d) Each prescribed drug for treatment of the following illnesses or conditions is exempt from the prior authorization system:

- (1) human immunodeficiency virus (HIV) infection;
- (2) acquired immune deficiency syndrome (AIDS);
- (3) cancer;
- (4) schizophrenia;
- (5) bipolar disorder; and
- (6) hemophilia.

Amendment No. 59 was withdrawn.

Amendment No. 60

Representative Reyna offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 69 by striking lines 3-6 and substituting the following:

(d) The commission shall provide for the distribution of current copies of the preferred drug lists to all appropriate health care providers in this state by posting the list on the Internet. In addition, the commission shall mail copies of the lists to any health care provider on request of that provider.

Amendment No. 60 was adopted without objection.

Amendment No. 61

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.12. On page 70, line 11, after "Section 531.072" strike "~~except for any drug exempted from prior authorization requirements by federal law~~" and substitute "except:

(1) no requirements for prior authorizations or other restrictions on medications used to treat mental illnesses such as schizophrenia, depression or bipolar disorder may be imposed on any recipient of Medicaid, CHIP or any state administered program. Medications that will be available shall include atypical anti-psychotic medications, conventional anti-psychotic medications and other medications used for the treatment of mental illness; and

(2) for any drug exempted from prior authorization requirements by federal law."

Representative Wohlgemuth moved to table Amendment No. 61.

A record vote was requested.

The motion to table prevailed by (Record 359): 79 Yeas, 60 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Kruse; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Haggerty; Hamilton; Hochberg; Hodge; Homer; Hopson; Hunter; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Telford; Thompson; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Woolley(C).

Absent, Excused — Cook, R.; Isett; Jones, E.; Turner.

Absent — Bailey; Gutierrez; Phillips; Smith, W.

Amendment No. 62

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.12. On page 70, line 11, after "Section 531.072" strike "~~except for any drug exempted from prior authorization requirements by federal law~~" and substitute "except:

(1) the Commission shall establish procedures to ensure that any person being treated with a mental health-related drug can continue to receive that same medication without obtaining prior authorization even if a preferred drug list is adopted under this Section; and

(2) for any drug exempted from prior authorization requirements by federal law."

Representative Wohlgemuth moved to table Amendment No. 62.

The motion to table prevailed.

Amendment No. 63

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.12. On page 70, line 11, after "Section 531.072" strike "~~except for any drug exempted from prior authorization requirements by federal law~~" and substitute "except:

(1) the Commission shall impose no requirements for prior authorizations or other restrictions on medications used to treat mental illness such as schizophrenia, depression or bipolar disorder until 30 days after it has conducted a study of the impact of such requirements on the quality of patient care for the program that uses drugs for mental illness and any increase in cost in other parts of the state's budget, including hospital costs, physician costs and criminal justice cost, and only if the study results conclude that such requirements do not pose a significant negative impact on the health or quality of life of persons with mental illness. The report by the Commission shall be submitted to the Governor, Lt. Governor and Speaker of the House; and

(2) for any drug exempted from prior authorization requirements by federal law."

Amendment No. 64

Representative Uresti offered the following amendment to Amendment No. 63:

Amend Amendment No. 63 by Uresti as follows:

SECTION 2.12. On page 70, line 11, after "Section 531.072" strike "~~except for any drug exempted from prior authorization requirements by federal law~~" and substitute "except:

(1) the Commission shall impose no requirements for prior authorizations or other restrictions on medications used to treat mental illness such as schizophrenia, depression or bipolar disorder until 30 days after it has conducted a study of the impact of such requirements on the quality of patient care for the program that uses drugs for mental illness and any increase in cost in other parts of the state's budget, including hospital costs, physician costs and criminal justice cost, and only if the study results conclude that such requirements do not pose a significant negative impact on the health or quality of life of persons with mental illness. The report by the Commission shall be submitted to the Governor, Lt. Governor and Speaker of the House; and

(2) for any drug exempted from prior authorization requirements by federal law."

Amendment No. 64 was adopted without objection.

Representative Wohlgemuth moved to table Amendment No. 63.

The motion to table prevailed.

Amendment No. 65

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.12. On page 70, line 11, after "Section 531.072" strike "~~except for any drug exempted from prior authorization requirements by federal law~~" and substitute "except:

(1) a patient for whom a prescribing physician obtains prior authorization under this section for treatment of mental illness by a nonpreferred drug is not required to obtain any further prior authorization for any future prescriptions of that drug; and

(2) for any drug exempted from prior authorization requirements by federal law."

Representative Wohlgemuth moved to table Amendment No. 65.

The motion to table prevailed.

Amendment No. 66

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.12. On page 70, line 11, after "Section 531.072" strike "~~except for any drug exempted from prior authorization requirements by federal law~~" and substitute "except:

(1) a patient for whom a prescribing physician obtains prior authorization under this section for treatment of mental illness by a nonpreferred drug is not required to obtain any further prior authorization for any future prescriptions of that drug; and

(2) for any drug exempted from prior authorization requirements by federal law."

Amendment No. 66 was withdrawn.

(Morrison in the chair)

Amendment No. 67

Representative Hopson offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 70, line 12, immediately following the period, add "The commission shall require that the prior authorization be obtained by the prescribing physician."

(2) On page 70, line 26, between "prescribed" and "for", insert "before implementation of a prior authorization requirement for that drug".

Amendment No. 67 was adopted without objection.

Amendment No. 68

Representative Dukes offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 70, line 20, insert the following after "authorization;" and before "and": "if a response is not received within such time for a person suffering from schizophrenia or bipolar disorder, the request is deemed approved."

(Woolley in the chair)

Representative Wohlgemuth moved to table Amendment No. 68.

The motion to table prevailed.

Amendment No. 69

Representative Hopson offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 71, between lines 17 and 18, by inserting the following:

(f) The commission shall ensure that the prior authorization requirements are implemented in a manner that minimizes the cost to the state and any administrative burden placed on providers.

Amendment No. 69 was adopted without objection.

Amendment No. 70

Representative Thompson offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292**, as amended, by striking Section 2.09 on page 66, between line 13 and 19 and substituting the following:

(b) Subject to subsection (c), The commission shall negotiate with manufacturers and labelers, including generic manufacturers and labelers, to obtain supplemental rebates for prescription sold in the state. (c) The commission may by contract authorize a private entity to negotiate with manufacturers and labelers on behalf of the commission. may by contract authorize a private entity to negotiate with manufacturers and labelers on behalf of the commission.

Amendment No. 70 was withdrawn.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

CSHB 2922 - (consideration continued)

Amendment No. 71

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.13. On page 71, line 27 thru page 72, line 1, strike Section 531.074 (b)(1) and substitute:

"(1) six physicians licensed under Subtitle B, Title 3, Occupations Code, and participating in the Medicaid program, and at least one of whom is a licensed physician who is actively engaged in mental health providing care and treatment to persons with severe mental illness and who has practice experience in the state Medicaid plan; and"

Amendment No. 71 was adopted without objection.

Amendment No. 72

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 72, line 10, strike "and"

On page 72, line 12, after "list" and before "." insert

": and, (3) do not have a contractual relationship, ownership interest, or other conflict-of-interest with an entity engaged by the commission to assist in the development of the preferred drug list or administration of the prior authorization system"

Amendment No. 72 was adopted without objection.

Amendment No. 73

Representative McClendon offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.14 is amended by adding the following sentence at the end of Sec. 531.075:

"Any such program shall recognize any prohibitions in federal law on limits in the amount, duration or scope of medically necessary services for children on Medicaid."

Amendment No. 73 was adopted without objection.

Amendment No. 74

Representative Gattis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION _____. (a) Section 531.101, Government Code, is amended to read as follows:

Sec. 531.101. AWARD FOR REPORTING MEDICAID FRAUD, ABUSE, OR OVERCHARGES. (a) The commission may grant an award to an individual who reports activity that constitutes fraud or abuse of funds in the state Medicaid program or reports overcharges in the program if the commission determines that the disclosure results in the recovery of an administrative penalty imposed under Section 32.039, Human Resources Code. The commission may not grant an award to an individual in connection with a report if the commission or attorney general had independent knowledge of the activity reported by the individual ~~[overcharge or in the termination of the fraudulent activity or abuse of funds]~~.

(b) The commission shall determine the amount of an award. The award may not exceed five ~~[must be equal to not less than 10]~~ percent of the amount of the administrative penalty imposed under Section 32.039, Human Resources Code, [savings to this state] that resulted [result] from the individual's disclosure. In determining the amount of the award, the commission shall consider how important the disclosure is in ensuring the fiscal integrity of the program. The commission may also consider whether the individual participated in the fraud, abuse, or overcharge.

~~(c) [An award under this section is subject to appropriation. The award must be paid from money appropriated to or otherwise available to the commission, and additional money may not be appropriated to the commission for the purpose of paying the award.]~~

~~[(d) Payment of an award under this section from federal funds is subject to the permissible use under federal law of funds for this purpose.]~~

~~[(e)] A person who brings an action under Subchapter C, Chapter 36, Human Resources Code, is not eligible for an award under this section.~~

(b) Section 531.101, Government Code, as amended by this section, applies only to a report that occurs on or after the effective date of this section. A report that occurs before the effective date of this section is governed by the law in effect at the time of the report, and the former law is continued in effect for that purpose.

Amendment No. 74 was adopted without objection.

Amendment No. 75

Representative McClendon offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

Amend SECTION 2.18 by adding the following at the end of line 19, page 80:

"Fingerprint images collected as part of the program shall only be placed on the smart card."

Amendment No. 75 was adopted without objection.

Amendment No. 76

Representative Villarreal offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by striking page 80, line 3, through page 81, line 11, and substituting the following:

Sec. 531.1063. MEDICAID FRAUD PILOT PROGRAM. (a) The commission, with cooperation from the Texas Department of Human Services, shall develop and implement a back-end Medicaid fraud reduction pilot program in one or more counties in this state to address provider fraud and appropriate cases of third-party and recipient fraud.

(b) The program must be designed to reduce:

(1) the number of fraud cases arising from authentication fraud and abuse; and

(2) the number of fraudulent participants.

(c) The program must include:

(1) development and implementation of back-end fraud detection technology, other than technology located or based at the provider level; and

(2) procedures and systems to identify patterns of fraud by Medicaid providers, recipients, or third-parties.

(d) The commission may extend the program to additional counties if the commission determines that expansion would be cost-effective.

Representative Wohlgemuth moved to table Amendment No. 76.

The motion to table prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of personal business in the district:

Hilderbran on motion of Keel.

CSHB 2292 - (consideration continued)

Amendment No. 77

Representative Coleman offered the following amendment to **CSHB 2292**:

On page 81, in Section 2.18, amend Section 531.1063 by striking lines 9 through 11 and substituting:

(e) The program must be evaluated by an independent entity and determined to be successful in reducing front-end provider, third-party, and recipient fraud before the program is extended to additional counties.

(f) The fingerprint images obtained shall be stored only on the smart card developed under Subsection (c).

(g) In implementing the program, the commission shall:

(1) exempt recipients who are children, elderly, or disabled;

(2) obtain a fingerprint image from the non-recipient parent or guardian of a child recipient; and

(3) ensure that procedures for obtaining fingerprint images of participating recipients and non-recipient parents or guardians are designed in a manner that gives consideration to transportation barriers and work schedules of recipients who are working parents.

(h) Before extending the program to additional counties, the commission shall provide a detailed cost-benefit analysis to the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board that certifies that the program will result in state savings relating to a reduction in Medicaid fraud.

(i) The commission may not award a contract to extend the program to other counties unless the contract includes a written guarantee of the state savings certified under Subsection (h).

Representative Wohlgemuth moved to table Amendment No. 77.

The motion to table prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Goodman on motion of Menendez.

CSHB 2292 - (consideration continued)**Amendment No. 78**

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.22. On page 86, line 25 through 27, and on page 87, line 1, strike proposed Section 531.115 "~~Sec. 531.073. PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS. (a) The commission shall develop and implement a system to cross-reference data collected for the programs listed under Section 531.008(e) with the list of fugitive felons maintained by the federal government.~~"

Amendment No. 78 was withdrawn.

Amendment No. 79

Representatives Flores and Gutierrez offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 88, between lines 12 and 13, by inserting the following:

(e) Notwithstanding Subsection (b)(1), the commission may not provide medical assistance using a health maintenance organization model, including Medicaid Star + Plus pilot programs, in Cameron County, Hidalgo County, Webb County, or Maverick County.

Amendment No. 79 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

McClendon on motion of Dukes.

CSHB 2292 - (consideration continued)**Amendment No. 80**

Representative B. Brown offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by striking page 90, line 18, through page 91, line 14, and renumbering SECTIONS of the bill appropriately.

Amendment No. 80 was adopted without objection.

Amendment No. 81

Representative Y. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 91, line 15, strike "Sections 403.1066(a) and (c)" and substitute "Section 403.1066(a)".

(2) On page 91, line 16, strike "are" and substitute "is".

(3) Strike page 91, line 27 and page 92, lines 1-8.

Amendment No. 81 was withdrawn.

Amendment No. 82

Representative Y. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by striking SECTIONS 2.30 and 2.31 (page 91, lines 15-27, and page 92, lines 1-12).

Amendment No. 82 was adopted without objection.

Amendment No. 83

Representatives Gutierrez and Haggerty offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by striking page 92, lines 15-27 and page 93 (lines 1-2) and substituting the following:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used as follows:

(1) not more than \$10 million in prize money each biennium shall be used by the Health and Human Services Commission to support the provision of inpatient hospital services in hospitals located in the 15 counties that comprise the Texas-Mexico border area, with payment for those services to be not less than the amount established under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) cost reimbursement methodology for the hospital providing the services; and

(2) all prize money subject to this section in excess of \$10 million each biennium shall be deposited to the credit of the Texas Department of Health state-owned multicategorical teaching hospital account or the tertiary care facility account as follows:

(A)[(1)] not more than \$15 [40] million in prize money each biennium may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund; and

(B)[(2)] all remaining prize money subject to this section [in excess of \$40 million] each biennium shall be deposited in the tertiary care facility account. Money deposited in the tertiary care facility account may only be appropriated to the department for purposes specified in Chapter 46 or 61, Health and Safety Code.

Amendment No. 83 was adopted without objection.

Amendment No. 84

Representative Christian offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 93, between lines 25 and 26, insert the following:

(d) If **HB 1930** or **SB 1556**, Acts of the 78th Legislature, Regular Session, 2003, is enacted and becomes law, this section does not apply to a person regulated under Chapter 773.

(2) On page 94, line 3, strike "three" and substitute "two".

Amendment No. 84 was adopted without objection.

Amendment No. 85

On behalf of Representative Solis, Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 97, between lines 7 and 8, insert the following:

(e) The commission shall audit each third-party billing vendor subject to this section at least annually to prevent fraud and abuse under the program.

(2) On page 143, between lines 9 and 10, insert the following:

(e) The department shall audit each third-party billing vendor subject to this section at least annually to prevent fraud and abuse under the medical assistance program.

Amendment No. 85 was adopted without objection.

Amendment No. 86

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.38. On page 98, strike section 2.38 and substitute:

Section 2.38. Section 62.102, Health and Safety Code, is amended to read as follows:

Sec. 62.102. CONTINUOUS COVERAGE. (a) The commission shall provide that an individual who is determined to be eligible for coverage under the child health plan remains eligible for those benefits until the earlier of:

(1) the end of a period, not to 12 months, following the date of the eligibility determination; or

(2) the individual's 19th birthday.

(b) The period of continuous eligibility may be established at an interval of less than 12 months only if a shorter interval is specified in the General Appropriations Act.

Amendment No. 86 was withdrawn.

Amendment No. 87

On behalf of Representatives Uresti and Solis, Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.39. On page 99, line 9, delete "may" and substitute "shall".

Amendment No. 87 was adopted without objection.

Amendment No. 88

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.40. On page 99, line 25, after "under" strike "~~Chapter 1551, Insurance Code.~~"

On page 99, lines 25-27, restore "[~~the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).~~]"

On page 100, lines 1-7, restore "[~~The child health plan must provide at least the covered benefits described by the recommended benefits package described for a state designated child health plan by the Texas House of Representatives Committee on Public Health "CHIP" Interim Report to the Seventy Sixth Texas Legislature dated December, 1998, and the Senate Interim Committee on Children's Health Insurance Report to the Seventy Sixth Texas Legislature dated December 1, 1998.~~]"

On page 100, lines 8-11, strike section 2.40 (e).

On page 100, lines 12-20, strike section 2.40 (f).

Add section 62.151(e), Health and Safety Code, to read:

"Services to be included in the child health program must include, but are not limited to,:

- 1) dental;
- 2) Durable Medical Equipment (wheelchairs, crutches, leg braces, prostheses, etc.);
- 3) chiropractic;
- 4) hearing aids;
- 5) hospice;
- 6) mental health;
- 7) physical therapy;
- 8) speech therapy;
- 9) substance abuse treatment; and
- 10) vision care and eyeglasses.

Representative Wohlgemuth moved to table Amendment No. 88.

The motion to table prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness in the family:

Eiland on motion of McCall.

CSHB 2292 - (consideration continued)

Amendment No. 89

Representative Ellis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) Strike SECTION 2.48 of the bill on page 105, line 26, through page 107, line 16, and renumber subsequent SECTIONS of the bill accordingly.

(2) On page 137, line 15, strike "Subsections (d) and (e)" and substitute "Subsection (d)".

(3) On page 137, line 17, between "provider" and "must", insert "that is Medicare-certified and provides care to individuals who are eligible for Medicare".

(4) Strike page 137, line 24, through page 138, line 1.

Amendment No. 89 was adopted without objection.

Amendment No. 90

Representative Ellis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 106, line 2, insert the following phrase after "(a)" and before "The":

On or after September 1, 2004,

(2) On page 107, line 7, after the period insert the following:

The department shall certify to the Governor and the Legislative Budget Board the total funds available prior to awarding a grant to a recipient.

Amendment No. 90 was adopted without objection.

Amendment No. 91

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 111, line 24, strike SECTION 2.56 and insert a new SECTION 2.56, starting on line 24, to read as follows:

SECTION 2.56. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0354 to read as follows:

Sec. 533.0354. MENTAL HEALTH CARE MANAGEMENT PRACTICES OF LOCAL MENTAL HEALTH AUTHORITIES. (a) a local mental health authority shall provide assessment services, intensive and comprehensive services, and crisis services and engage an individual with treatment services that are:

(1) ongoing and matched in type, duration and intensity to the needs of the individual;

(2) focused on a process of recovery designed to progress an individual through levels of services; and

(3) guided by evidences-based protocols and a strength-based paradigm of service, and monitored by a system that holds local authorities accountable for specific outcomes while allowing flexibility to maximize local responses.

(b) The department shall enter into performance contracts between the department and each local mental health authority for the fiscal years ending August 31, 2004 and August 31, 2005, that contain performance targets for those fiscal years for the number of persons provided with mental health care management practices.

Representative J. Davis moved to table Amendment No. 91.

A record vote was requested.

The motion to table prevailed by (Record 360): 81 Yeas, 53 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hill; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Telford; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ellis; Farabee; Farrar; Gallego; Garza; Giddings; Guillen; Gutierrez; Haggerty; Hochberg; Hodge; Homer; Hopson; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Thompson; Uresti; Villarreal; Wilson; Wise.

Present, not voting — Mr. Speaker; Woolley(C).

Absent, Excused — Cook, R.; Eiland; Goodman; Hilderbran; Isett; Jones, E.; McClendon; Turner.

Absent — Capelo; Flores; Pickett; Smithee; Wolens.

Amendment No. 92

Representative Hartnett offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered SECTION in Article 2 of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 245.004(a), Health and Safety Code, is amended to read as follows:

(a) The following facilities need not be licensed under this chapter:

(1) a hospital licensed under Chapter 241 (Texas Hospital Licensing Law); or

(2) the office of a physician licensed under Subtitle B, Title 3, Occupations Code, unless the office is used for the purpose of performing more than 50 ~~300~~ abortions in any 12-month period.

(b) An office of a physician required by Section 245.004(a), Health and Safety Code, as amended by this section, to be licensed under Chapter 245, Health and Safety Code, must obtain that license not later than January 1, 2004.

Amendment No. 92 was adopted without objection.

Amendment No. 93

Representative J. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by striking Section 2.59 of the bill and substituting the following:

SECTION 2.59. Subchapter D, Chapter 533, Health and Safety Code, is amended by adding Section 533.0844 to read as follows:

Sec. 533.0844. MENTAL HEALTH COMMUNITY SERVICES ACCOUNT. (a) The mental health community services account is an account in the general revenue fund that may be appropriated only for the provision of mental health services by or under contract with the department.

(b) The department shall deposit to the credit of the mental health community services account any money donated to the state for inclusion in the account, including life insurance proceeds designated for deposit to the account.

(c) Interest earned on the mental health community services account shall be credited to the account. The account is exempt from the application of Section 403.095, Government Code.

Amendment No. 93 was adopted without objection.

Amendment No. 94

Representative J. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by striking Section 2.60 of the bill and substituting the following:

SECTION 2.60. Subchapter D, Chapter 533, Health and Safety Code, is amended by adding Section 533.0846 to read as follows:

Sec. 533.0846. MENTAL RETARDATION COMMUNITY SERVICES ACCOUNT. (a) The mental retardation community services account is an account in the general revenue fund that may be appropriated only for the provision of mental retardation services by or under contract with the department.

(b) The department shall deposit to the credit of the mental retardation community services account any money donated to the state for inclusion in the account, including life insurance proceeds designated for deposit to the account.

(c) Interest earned on the mental retardation community services account shall be credited to the account. The account is exempt from the application of Section 403.095, Government Code.

Amendment No. 94 was adopted without objection.

Amendment No. 95

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.62. On page 120, line 26, after "credit" insert "unless the department does not provide recipients with information about the federal earned income tax credit and how to apply for and receive the credit"

(Speaker in the chair)

Amendment No. 95 was withdrawn.

Amendment No. 96

Representative Hilderbran offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 121, line 14, strike subsection (b), and replace with the following:

(b) Beginning on September 1, 2003, the Texas Department of Human Service shall require each payee of financial assistance under Chapter 31, Human Resources Code, to enter into a responsibility agreement that complies with the requirements of Section 31.0031, Human Resources Code, as amended by this section, to continue receiving that assistance. Each payee of financial assistance under Chapter 31, Human Resources Code, who received that assistance on behalf of a dependent child before September 1, 2003, will be required to enter into a responsibility agreement that complies with the requirements of Section 31.0031, Human Resources Code, as amended by this section, upon their next review of eligibility for financial assistance. The department may not enforce the terms of the new agreement until the payee or recipient has an opportunity to enter into the agreement.

(Woolley in the chair)

Amendment No. 96 was withdrawn.

Amendment No. 97

Representative Luna offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 122, strike subsection (a) and substitute the following:

"(a) Except as provided by Section 31.0033 and notwithstanding any other law, a person for whom the department has made a determination of eligibility for financial assistance and for whom an initial payment of that assistance has been made may not receive any subsequent monthly payments of assistance for the person or the person's family until the person cooperates with the requirements of the responsibility agreement under Section 31.0031. The person and the person's family may receive a financial assistance payment each month only if the person cooperated with those requirements during the previous month.

(2) On Page 123 and 124, strike subsection (a) and substitute the following:

"(a) If the department or title IV-D agency determines that a person has failed to cooperate with the requirements of the responsibility agreement under Section 31.0031 during a one-month period [~~penalties and sanctions should be applied under Section 31.0032~~], the person determined to have failed to cooperate [~~not complied~~] or, if different, the person receiving the financial assistance may request a hearing to show good cause for failure to cooperate [~~noncompliance~~] not later than the 13th day after the date on which notice is received under Section 31.0032. If the person determined to have failed to cooperate or, if different, the person receiving the financial assistance requests a hearing to show good cause not later than the 13th day after the date on which notice is received under Section 31.0032, the department may not withhold or reduce the payment of financial assistance until the 31st day after the department receives the request, provided the department completes the hearing before the 31st day, or the date the

hearing is completed. On a showing for good cause for failure to cooperate [noncompliance], the person may receive a financial assistance payment for the month in which the person failed to cooperate [sanctions may not be imposed].

(Speaker in the chair)

Amendment No. 97 was adopted without objection.

Amendment No. 98

Representative Thompson offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 128, line 26, add the following language:

(E) Family Planning.

Amendment No. 99

Representative Talton offered the following amendment to Amendment No. 98:

Amend Amendment No. 98 by Thompson to **CSHB 2292** by adding the following appropriately numbered item to the amendment:

() On page 129, between lines 18 and 19, insert the following:

(f) Information on family planning provided through the program under this section may not include any information regarding abortion.

Amendment No. 99 was withdrawn.

Amendment No. 98 was withdrawn.

Amendment No. 100

Representative Thompson offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 129, line 2, add the following language:

(A) abstinence and other family planning methods for all unmarried persons, including abstinence and other family planning methods for persons who have previously been married;

Amendment No. 101

Representative Talton offered the following amendment to Amendment No. 100:

Amend Amendment No. 100 by Thompson to **CSHB 2292** by adding the following appropriately numbered item to the amendment:

() On page 129, between lines 18 and 19, insert the following:

(f) Information on family planning provided through the program under this section may not include any information regarding abortion.

A record vote was requested.

Amendment No. 101 was adopted by (Record 361): 89 Yeas, 34 Nays, 4 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Eissler; Elkins; Ellis; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hill; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Olivo; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wise; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Canales; Castro; Chavez; Davis, Y.; Dukes; Flores; Gallego; Garza; Guillen; Gutierrez; Haggerty; Hochberg; Hodge; Jones, J.; Lewis; McReynolds; Menendez; Moreno, J.; Naishtat; Noriega; Peña; Puente; Raymond; Ritter; Rodriguez; Rose; Solis; Telford; Thompson; Uresti; Villarreal; Wilson.

Present, not voting — Mr. Speaker(C); Edwards; Hopson; Mabry.

Absent, Excused — Cook, R.; Eiland; Goodman; Hilderbran; Isett; Jones, E.; McClendon; Turner.

Absent — Burnam; Capelo; Coleman; Dutton; Farabee; Farrar; Giddings; Homer; Luna; Martinez Fischer; Moreno, P.; Oliveira; Quintanilla; Wolens.

Amendment No. 100 was withdrawn.

Amendment No. 102

Representative Ellis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 135, line 27, strike "(a)".
 (2) On page 136, line 2, insert "Sec. 32.0321. SURETY BOND." immediately before "(a)".

(3) On page 136, between lines 10 and 11, insert the following:

(b) The bond under Subsection (a) must be payable to the department to compensate the department for damages resulting from or penalties or fines imposed in connection with an act of fraud or abuse committed by the provider under the medical assistance program.

(c) Subject to Subsection (d) or (e), the department by rule may require each provider of medical assistance that establishes a resident's trust fund account to post a surety bond to secure any shortages in the account. The bond must be payable to the department to compensate residents of the bonded provider for trust funds that are lost, stolen, or otherwise unaccounted for if the provider does not repay any deficiency in a resident's trust fund account to the person legally entitled to receive the funds.

(d) The department may not require the amount of a surety bond posted for a single facility provider under Subsection (c) to exceed the average of the total average monthly balance of all the provider's resident trust fund accounts for the 12-month period preceding the bond issuance or renewal date.

(e) The department may not require the amount of a surety bond posted for a multiple facility provider under Subsection (c) to exceed the average of the total average monthly balance of all the provider's resident trust fund accounts in all of the provider's facilities for the 12-month period preceding the bond issuance or renewal date.

Amendment No. 103

Representative Ellis offered the following amendment to Amendment No. 102:

Amend Amendment No. 102 by Ellis to **CSHB 2292** as follows:

(1) On page 1, line 24, between "date" and the period, insert ", excluding the amounts of the residents' personal needs allowances".

(2) On page 2, line 1, between "date" and the period, insert ", excluding the amounts of the residents' personal needs allowances".

Amendment No. 103 was adopted without objection.

Amendment No. 102, as amended, was adopted without objection.

Amendment No. 104

Representative Ellis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 140 between lines 10 and 11, by adding a new subsection (4) to read as follows:

(4) with the assistance of the department, assess the potential cost impacts on providers necessary to meet the minimum standards, and the commensurate fiscal impact on the department's appropriations requirement.

Amendment No. 104 was adopted without objection.

Amendment No. 105

Representative Ellis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 139, beginning at line 3, by striking subsection (g)(1) in its entirety and substituting the following:

(1) develop and recommend clearly defined minimum standards to be considered for inclusion in contracts between the department and nursing facilities for the delivery of medical assistance under this chapter that designed to:

Amendment No. 105 was adopted without objection.

Amendment No. 106

Representative Ellis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) on page 140, beginning at line 25, strike Subsection (d) in its entirety and substitute the following:

(d) The nursing facility quality assurance team shall report on its work and recommendations to the Governor and the Legislative Budget Board no later than October 1, 2004, for consideration by the 79th Legislature.

Amendment No. 106 was adopted without objection.

Amendment No. 107

Representative Luna offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 129, strike SECTION 2.67 of the bill and renumber subsequent sections appropriately.

Amendment No. 107 was adopted without objection.

Amendment No. 108

Representative Dukes offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) Amend Section 2.62 of the bill by inserting a new subsection (b)(8) as follows:

"SECTION 2.62. (a) Section 31.0031, Human Resources Code, is amended by amending Subsections (b), (d), and (g) and adding Subsection (h) to read as follows:

(b) The responsibilities of the state shall include administering programs, within available resources, that:

(1) promote clear and tangible goals for recipients;
(2) enable parents to provide for their children's basic necessities in a time-limited benefits program;
(3) promote education, job training, and workforce development;
(4) support the family structure through life and parenting skills training;

(5) are efficient, fraud-free, and easily accessible by recipients;
(6) gather accurate client information;
(7) give communities the opportunity to develop alternative programs that meet the unique needs of local recipients; and

(8) provide recipients with information about the federal earned income tax credit and how to apply for and receive the credit."

(2) Strike Section 2.67 of the bill and substitute the following:

"SECTION 2.67. Section 31.032, Human resources Code, is amended by adding Subsection (f) to read as follows:

(f) A recipient of assistance authorized by this chapter is ineligible for continued assistance if the recipient qualified for the federal earned income tax credit for the tax year in which they applied for assistance under this Chapter but did not claim the credit on their federal income tax return. The department shall develop rules for implementing this requirement and obtaining necessary information from recipients to ensure compliance.

Amendment No. 108 was withdrawn.

Amendment No. 109

Representative Farrar offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 128, line 16, add the following language:

The department will make every effort possible to offer the program to non-custodial parents whose child's custodial parent is receiving financial assistance under this chapter.

(2) On page 129, line 12, add the following language:

Non-recipients of financial assistance will not receive compensation for attending the program.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Ellis on motion of J. Davis.

CSHB 2292 - (consideration continued)

Amendment No. 109 was withdrawn.

Amendment No. 110

On behalf of Representative Farrar, Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** follows:

On page 129, line 18, add the following language:

(f) The department must ensure that the courses provided by the department and courses provided through contracts with other organizations will be sensitive to the needs of individuals from different religions, races, genders and sexual orientations.

Amendment No. 110 was adopted without objection.

Amendment No. 111

On behalf of Representative Farrar, Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 129, line 13, add the following language:

(d) The department may provide courses or may contract with any person, including a community or faith-based organization, for the provision of the courses. The department must provide all participants with an option of attending courses in a non faith-based organization.

Amendment No. 111 was withdrawn.

Amendment No. 112

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.72. On page 133, line 21, after "June 1" strike "~~2004~~" and substitute "2005".

Amendment No. 112 was withdrawn.

Amendment No. 113

Representative Flynn offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 136, line 17, by striking "insurance before" and substituting "insurance that the provider knows about or should know about before".

Amendment No. 113 was adopted without objection.

Amendment No. 114

Representative Hupp offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 149 by striking lines 14-16 and substituting the following:

"(B) [~~Education Code, or means~~] a student who is eligible for a free or reduced lunch; or".

Amendment No. 114 was adopted without objection.

Amendment No. 115

Representative Delisi offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 157, between lines 14 and 15, insert a new Subsection (c) to read as follows:

(c) The change in law made by this section expires December 31, 2007.

(2) On page 158, between lines 9 and 10, insert a new Subsection (c) to read as follows:

(c) The change in law made by this section expires December 31, 2007.

(3) On page 159, between lines 9 and 10, insert a new Subsection (c) to read as follows:

(c) The change in law made by this section expires December 31, 2007.

Amendment No. 115 was adopted without objection.

Amendment No. 116

Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 129, line 18, add the following language:

(f) The department must ensure that the courses provided by the department and courses provided through contracts with other organizations will be sensitive to the needs of individuals from different religions, races, and genders.

Amendment No. 116 was adopted without objection.

Amendment No. 117

Representative Pickett offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 161, Line 27 add subsection (b) to read as follows:

b) It is the intent of the legislature that, whenever possible, and to the maximum extent feasible, the existing network of transportation providers, and in particular the fixed route components of the existing networks, be used to meet the client transportation requirements of the state's social service agencies and their agents. The legislature recognizes the contributions of nonprofit entities dedicated to providing social services and related activities and encourages the continued community involvement of these entities in this area. The legislature likewise recognizes the potential cost savings and other benefits for utilizing existing private sector transportation resources. The department will contract with and promote the use of private sector transportation resources to the maximum extent feasible consistent with the goals of this subsection.

Amendment No. 117 was adopted without objection.

Amendment No. 118

On behalf of Representative Isett, Representative Crownover offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 162, line 4, between "services" and ":", insert "for clients of eligible programs."

(2) On page 162, line 10, between "services" and ":", insert "for clients of eligible programs."

(3) On page 162, line 16, between "services" and ":", insert "for clients of eligible programs."

(4) On page 162, line 22, between "services" and ":", insert "for clients of eligible programs."

(5) On page 163, line 5, between "services" and ":", insert "for clients of eligible programs."

(6) On page 163, line 11, between "services" and ":", insert "for clients of eligible programs."

(7) On page 166, line 12, between "services" and ":", insert "for clients of eligible programs."

(8) On page 166, line 22, between "services" and ":", insert "for clients of eligible programs."

Amendment No. 118 was adopted without objection.

Amendment No. 119

On behalf of Representative Isett, Representative Crownover offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 161, line 27, strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) On page 162, line 1, between "Health" and "shall", insert "and the Health and Human Services Commission".

(3) On page 162, line 3, between "Health" and "relating", insert "and the Health and Human Services Commission".

(4) On page 162, between lines 4 and 5, insert the following:

"(d) The department may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services."

(5) On page 168, between lines 15 and 16, insert SECTION 2.105 to read as follows and renumber the subsequent sections appropriately:

"SECTION 2.105. LEGISLATIVE INTENT REGARDING PROVISION OF HEALTH AND HUMAN SERVICE TRANSPORTATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION. It is the intent of the legislature that the provision of health and human service transportation through the Texas Department of Transportation will improve the delivery of transportation services to clients and enhance their access to transportation services. Furthermore, it is the intent of the legislature that these services be

provided in a manner that will generate efficiencies in operation, control costs, and permit increased levels of service. The Texas Department of Transportation shall encourage cooperation and coordination among transportation providers, regional transportation brokers, and actual and potential clients in an effort to achieve the stated legislative goals."

Amendment No. 119 was adopted without objection.

Amendment No. 120

On behalf of Representative Isett, Representative Crownover offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 162, line 7, by striking "shall" and substituting "may".

Amendment No. 120 was adopted without objection.

Amendment No. 121

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.111. On page 172, lines 3-9, strike the entire section.

Amendment No. 121 was withdrawn.

Amendment No. 122

On behalf of Representative Eiland, Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

SECTION 2.108.

On page 171, line 1, between "rate" and "." insert "and the child's entitlement to Medicaid coverage. The waiver shall, on at least an annual basis, allow families eligible for Medicaid who have previously opted to enroll their children in the child health plan program under Chapter 62, Health and Safety Code, to return those children to the Medicaid program".

Amendment No. 122 was adopted without objection.

Amendment No. 110 - Vote Reconsidered

Representative Wohlgemuth moved to reconsider the vote by which Amendment No. 110 was adopted.

The motion to reconsider prevailed.

Amendment No. 110 was withdrawn.

Amendment No. 123

On behalf of Representative Farrar, Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 129, line 13, add the following language:

(d) The department may provide courses or may contract with any person, including a community or faith-based organization, for the provision of the courses. The department must provide all participants with an option of attending courses in a non faith-based organization.

Amendment No. 123 was adopted without objection.

Amendment No. 124

Representative Laubenberg offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) Add the following appropriately numbered SECTION to Article 2 of the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 32.0315, Human Resources Code, is amended to read as follows:

(a) Subject to appropriated state funds, the [The] department shall establish procedures and formulas for the allocation of federal medical assistance funds that are directed to be used to support graduate medical education in connection with the medical assistance program.

(2) On page 172, line 4, strike "(1)".

(3) On page 172, line 5, strike "; and" and substitute a period.

(4) On page 172, strike line 6.

(Woolley in the chair)

Amendment No. 124 was adopted without objection.

Amendment No. 125

Representative Coleman offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

1. On page 172, line 22, add a new Section 2.114 to read as follows:

"SECTION 2.114. Any funds that are used by the Texas Department of Transportation to implement the transportation services provided in Sections 2.94, 2.95, 2.96, 2.97, 2.98, 2.99, 2.100, and 2.101 shall be accounted for and budgeted separately from other funds appropriated to the Texas Department of Transportation for any other public transportation program or budget strategy."

2. Renumber the remaining section accordingly.

Amendment No. 125 was adopted without objection.

Amendment No. 126

Representative Noriega offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Chapter 285, Health and Safety Code, is amended by adding Subchapter M, to read as follows:

SUBCHAPTER M. PROVISION OF SERVICES

Sec. 285.201. PROVISION OF MEDICAL AND HOSPITAL CARE. As authorized by 8 U.S.C. Section 1621 (d), this Chapter affirmatively establishes eligibility for a person who would otherwise be ineligible under 8 U.S.C. Section 1621 (a), provided that only local funds are utilized for the provision of non-emergency public health benefits. A person is not considered a resident of a governmental entity or hospital district if the person attempted to establish residence solely to obtain health care assistance.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2003.

Amendment No. 126 was adopted. (Baxter, Berman, Bohac, Bonnen, B. Brown, Callegari, Chisum, Christian, B. Cook, Corte, Dawson, Eissler, Flynn, Gattis, Griggs, Hamilton, Harper-Brown, Hope, Howard, Hupp, B. Keffer, Laubenberg, Marchant, Morrison, Paxton, Riddle, Solomons, Stick, Talton, Taylor, Van Arsdale, Wong, Woolley, and Zedler recorded voting no)

Amendment No. 127

Representative Gattis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered SECTIONS to Article 2 of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Articles 59.01(1) and (2), Code of Criminal Procedure, are amended to read as follows:

(1) "Attorney representing the state" means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter or, in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(iv) of this article, the city attorney of a municipality if the property is seized in that municipality by a peace officer employed by that municipality and the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding. In a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(vii) of this article, the term includes the attorney general.

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

- (i) any first or second degree felony under the Penal Code;
- (ii) any felony under Section 15.031(b), 21.11, 38.04, 43.25, or 43.26 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code; or
- (iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

- (i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);
- (ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;
(iv) any felony under Chapter 34, Penal Code;
(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter; ~~[or]~~

(vi) any felony under Chapter 152, Finance Code; or
(vii) any felony under Chapter 31, 32, or 37, Penal Code, that involves the state Medicaid program, or any felony under Chapter 36, Human Resources Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence.

SECTION _____. Article 59.06, Code of Criminal Procedure, is amended by adding Subsection (p) to read as follows:

(p) Notwithstanding Subsection (a), and to the extent necessary to protect the commission's ability to recover amounts wrongfully obtained by the owner of the property and associated damages and penalties to which the commission may otherwise be entitled by law, the attorney representing the state shall transfer to the Health and Human Services Commission all forfeited property defined as contraband under Article 59.01(2)(B)(vii). If the forfeited property consists of property other than money or negotiable instruments, the attorney representing the state may, if approved by the commission, sell the property and deliver to the commission the proceeds from the sale, minus costs attributable to the sale. The sale must be conducted in a manner that is reasonably expected to result in receiving the fair market value for the property.

Amendment No. 127 was adopted without objection.

Amendment No. 128

Representative Rodriguez offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

Add the following appropriately numbered section to Article II of the bill and renumber the subsequent sections accordingly:

Community mental health centers may coordinate with local community health centers, Federally Qualified Health Centers (FQHC), and/or Disproportionate Share Hospitals for the purpose of accessing local, state, and federal programs that could result in lower cost pharmaceuticals. In particular, community mental health centers may form a referral relationship with community health centers, Federally Qualified Health Centers (FQHC), Disproportionate Share Hospitals, and/or other eligible entities for the purpose of obtaining federal 340b pricing for pharmaceuticals. Community mental health centers may form a referral relationship with community health centers, Federally Qualified Health Centers (FQHC), Disproportionate Share Hospitals, and/or other eligible entities for the purpose of taking advantage of 340b or other lower cost drug programs regardless of any statewide preferred drug list or vendor drug program, which may be adopted.

Amendment No. 128 was adopted without objection.

Amendment No. 129

Representative Corte offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered Section to Article 2 of the bill and renumbering subsequent Sections accordingly:

SECTION _____. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0335 to read as follows:

Sec. 531.0335. PROHIBITION ON PUNITIVE ACTION FOR FAILURE TO IMMUNIZE. (a) In this section:

(1) "Person responsible for a child's care, custody, or welfare" has the meaning assigned by Section 261.001, Family Code.

(2) "Punitive action" includes the initiation of an investigation of a person responsible for a child's care, custody, or welfare for alleged or suspected abuse or neglect of a child.

(b) The commissioner by rule shall prohibit a health and human services agency from taking a punitive action against a person responsible for a child's care, custody, or welfare for failure of the person to ensure that the child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

(c) This section does not affect a law, including Chapter 31, Human Resources Code, that specifically provides a punitive action for failure to ensure that a child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

Amendment No. 129 was adopted without objection.

Amendment No. 130

Representative Heflin offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered section and renumbering subsequent :

SECTION ___. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.076 to read as follows:

Sec. 531.076. RESPONSIBILITIES REGARDING PAY DISPARITY FOR DIRECT SUPPORT PROFESSIONAL SERVICES TO PERSONS WITH MENTAL RETARDATION. (a) In this section:

(1) "Community-based providers of mental retardation services" means:

(A) community centers established under Subchapter A, Chapter 534, Health and Safety Code, that provide community-based mental retardation services; and

(B) private entities that provide community-based mental retardation services under contract with a local mental retardation authority under Subchapter B, Chapter 534, Health and Safety Code.

(2) "Direct support professional services" means services provided directly to or for the benefit of a person receiving mental retardation services through a state-owned or state-operated residential care facility or through a community-based provider.

(3) "Direct support professional services worker" means a person who is employed to provide direct support professional services.

(4) "Disparity amount" means the average difference between the wages and benefits paid to a direct support professional services worker employed by a community-based provider of mental retardation services and the wages and benefits paid to a comparable worker in a state-owned or state-operated residential care facility under the Texas Department of Mental Health and Mental Retardation.

(5) "Mental retardation services" means programs and services provided to a person with mental retardation under the state Medicaid program through:

(A) a community medical assistance program serving persons receiving care in intermediate care facilities for mentally retarded persons; or

(B) a home and community-based services waiver program for persons with mental retardation adopted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)), as amended.

(b) The commission shall reimburse community-based providers of mental retardation services in accordance with this section.

(c) The commissioner shall determine:

(1) the disparity amount; and

(2) the amount by which the reimbursement rate for community-based providers of mental retardation services must be increased to reduce and eliminate the disparity amount in accordance with Subsection (d).

(d) The commissioner shall increase the amount of the direct support professional services cost component of the reimbursement rate paid to community-based providers of mental retardation services by an amount that will:

(1) reduce the disparity amount by one-third not later than September 1, 2005;

(2) reduce the disparity amount by two-thirds not later than September 1, 2006; and

(3) eliminate the disparity amount not later than September 1, 2007.

(e) Before each regular session of the legislature, the commissioner shall include with the commission's legislative appropriations request or other general budget request a request for the appropriation of money in an amount necessary to implement this section.

(f) After the commissioner has eliminated the disparity amount under Subsection (d), the commissioner shall continue to monitor any disparity amount that may occur and as necessary change the reimbursement rate for the direct support professional services component of the aggregate reimbursement rate paid to community-based providers of mental retardation services to equalize the wages and benefits paid to direct support professional services workers employed by community-based providers of mental retardation services and the wages and benefits paid to comparable workers in state-owned or state-operated residential care facilities.

(g) In determining the disparity amount, the commissioner shall use information available from:

(1) the reimbursement methodology in effect under rules of the commission; and

(2) the state employee compensation schedule used by the Texas Department of Mental Health and Mental Retardation.

(h) The amount of an increase in reimbursement paid to a provider of community-based mental retardation services by the implementation of this section shall be used to increase the compensation of direct support professional services workers employed by that provider.

(i) The commissioner may reduce or eliminate the disparity amount earlier than this section requires.

SECTION __. The commissioner of health and human services shall adopt rules necessary to implement Section 531.076, Government Code, as added by this section, not later than September 1, 2004.

Amendment No. 130 was withdrawn.

(Speaker in the chair)

Amendment No. 131

Representative Heflin offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) Add the following sections, numbered appropriately:

SECTION _____. Section 142.003(a), Health and Safety Code, is amended to read as follows:

(a) The following persons need not be licensed under this chapter:

(1) a physician, dentist, registered nurse, occupational therapist, or physical therapist licensed under the laws of this state who provides home health services to a client only as a part of and incidental to that person's private office practice;

(2) a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, speech therapist, medical social worker, or any other health care professional as determined by the department who provides home health services as a sole practitioner;

(3) a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service;

(4) an individual whose permanent residence is in the client's residence;

(5) an employee of a person licensed under this chapter who provides home health, hospice, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the license holder;

(6) a home, nursing home, convalescent home, assisted living facility, special care facility, or other institution for individuals who are elderly or who have disabilities that provides home health or personal assistance services only to residents of the home or institution;

(7) a person who provides one health service through a contract with a person licensed under this chapter;

- (8) a durable medical equipment supply company;
- (9) a pharmacy or wholesale medical supply company that does not furnish services, other than supplies, to a person at the person's house;
- (10) a hospital or other licensed health care facility that provides home health or personal assistance services only to inpatient residents of the hospital or facility;
- (11) a person providing home health or personal assistance services to an injured employee under Title 5, Labor Code;
- (12) a visiting nurse service that:
 - (A) is conducted by and for the adherents of a well-recognized church or religious denomination; and
 - (B) provides nursing services by a person exempt from licensing by Section 301.004, Occupations Code, because the person furnishes nursing care in which treatment is only by prayer or spiritual means;
- (13) an individual hired and paid directly by the client or the client's family or legal guardian to provide home health or personal assistance services;
- (14) a business, school, camp, or other organization that provides home health or personal assistance services, incidental to the organization's primary purpose, to individuals employed by or participating in programs offered by the business, school, or camp that enable the individual to participate fully in the business's, school's, or camp's programs;
- (15) a person or organization providing sitter-companion services or chore or household services that do not involve personal care, health, or health-related services;
- (16) a licensed health care facility that provides hospice services under a contract with a hospice;
- (17) a person delivering residential acquired immune deficiency syndrome hospice care who is licensed and designated as a residential AIDS hospice under Chapter 248; ~~or~~
- (18) the Texas Department of Criminal Justice; or
- (19) a person that provides services under a home and community-based services waiver program for persons with mental retardation adopted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n), as amended, and that is funded wholly or partly by the Texas Department of Mental Health and Mental Retardation and monitored by that department or by a designated local authority in accordance with standards adopted by that department.

SECTION _____. Section 142.009(j), Health and Safety Code, is amended to read as follows:

(j) Except as provided by Subsections (h)~~[-(i)]~~ and (l), an on-site survey must be conducted within 18 months after a survey for an initial license. After that time, an on-site survey must be conducted at least every 36 months.

SECTION _____. Section 533.034, Health and Safety Code, is amended to read as follows:

Sec. 533.034. AUTHORITY TO CONTRACT FOR COMMUNITY-BASED SERVICES. (a) The department may cooperate, negotiate, and contract with local agencies, hospitals, private organizations and foundations, community centers, physicians, and other persons to plan, develop, and provide community-based mental health and mental retardation services.

(b) The department may adopt a schedule of initial and annual renewal compliance fees for persons that provide services under a home and community-based services waiver program for persons with mental retardation adopted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n), as amended, and that is funded wholly or partly by the department and monitored by the department or by a designated local authority in accordance with standards adopted by the department. This subsection expires September 1, 2005.

(2) On page 172, at the end of line 4, insert "142.006(d), (e), and (f), 142.009(i), 142.0176,"

Amendment No. 132

Representative Heflin offered the following amendment to Amendment No. 131:

Amend Amendment No. 131 by Heflin to **CSHB 2292** by adding the following appropriately numbered item and renumbering the remaining items as appropriate:

() Add the following appropriately numbered sections of the bill and renumber the remaining sections of the bill as appropriate:

SECTION _____. Section 253.008, Health and Safety Code, is amended to read as follows:

Sec. 253.008. VERIFICATION OF EMPLOYABILITY. (a) Before a facility, ~~[or]~~ an agency licensed under Chapter 142, or a person exempt from licensing under Section 142.003(a)(19) may hire an employee, the facility, ~~[or]~~ agency, or person shall search the employee misconduct registry under this chapter and the nurse aide registry maintained under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) to determine whether the applicant for employment ~~[person]~~ is designated in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from an agency licensed under Chapter 142 or from a person exempt from licensing under Section 142.003(a)(19).

(b) A facility, ~~[or]~~ agency licensed under Chapter 142, or a person exempt from licensing under Section 142.003(a)(19) may not employ a person who is listed in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from an agency licensed under Chapter 142 or from a person exempt from licensing under Section 142.003(a)(19).

SECTION _____. Section 253.009(a), Health and Safety Code, is amended to read as follows:

(a) Each facility, ~~[or]~~ each agency licensed under Chapter 142, and each person exempt from licensing under Section 142.003(a)(19) shall notify its employees in a manner prescribed by the department:

(1) about the employee misconduct registry; and

(2) that an employee may not be employed if the employee is listed in the registry.

SECTION _____. Section 48.401(1), Human Resources Code, is amended to read as follows:

(1) "Agency" means:

(A) an entity licensed under Chapter 142, Health and Safety Code;

or

(B) a person exempt from licensing under Section 142.003(a)(19), Health and Safety Code.

Amendment No. 132 was adopted without objection.

Amendment No. 131, as amended, was adopted without objection.

Amendment No. 133

Representative Heflin offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered sections:

SECTION _____. Section 533.035, Health and Safety Code, is amended by amending Subsection (c) and by adding Subsections (e), (f), and (g) to read as follows:

(c) A local mental health and mental retardation authority, with the department's approval, shall use the funds received under Subsection (b) to ensure mental health, mental retardation, and chemical dependency services are provided in the local service area. The local authority shall consider public input, ultimate cost-benefit, and client care issues to ensure consumer choice and the best use of public money in:

(1) assembling a network of service providers; and

(2) ~~[determining whether to become a provider of a service or to contract that service to another organization; and~~

~~(3)~~ making recommendations relating to the most appropriate and available treatment alternatives for individuals in need of mental health or mental retardation services.

(e) In assembling a network of service providers, a local mental health and mental retardation authority may serve as a provider of services only as a provider of last resort and only if the authority demonstrates to the department that:

(1) the authority has made every reasonable attempt to solicit the development of an available and appropriate provider base that is sufficient to meet the needs of consumers in its service area; and

(2) there is not a willing provider of the relevant services in the authority's service area or in the county where the provision of the services is needed.

(f) The department shall review the appropriateness of a local mental health and mental retardation authority's status as a service provider at least annually.

(g) The department, together with local mental health and mental retardation authorities and other interested persons, shall develop and implement a plan to privatize all services by intermediate facilities for persons with mental retardation and all related waiver services programs operated by an authority. The transfer of services to private providers must occur on or before August 31, 2004. The plan must provide criteria that:

(1) promote the transition of services to private providers in a manner that causes the least disruption practicable to the consumers of those services;

(2) ensure the continuation of services at the same level of service provided before the transfer;

(3) provide for consumer choice as appropriate and as required by rule;
and

(4) require local mental health and mental retardation authorities to implement the privatization of services in a fiscally responsible manner.

SECTION _____. Section 534.001(b), Health and Safety Code, is amended to read as follows:

(b) In accordance with this subtitle, a ~~[A]~~ community center may be:

(1) a community mental health center that provides mental health services;

(2) a community mental retardation center that provides mental retardation services; or

(3) a community mental health and mental retardation center that provides mental health and mental retardation services.

SECTION _____. Section 535.002(b), Health and Safety Code, is amended to read as follows:

(b) If feasible and economical, the department may use local mental health and mental retardation authorities to implement this chapter. However, the department may not designate a ~~[those]~~ local mental health or ~~[and]~~ mental retardation authority ~~[authorities]~~ as a provider ~~[the sole providers]~~ of services if other providers are available.

Amendment No. 133 was adopted without objection.

CSHB 2292- POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSHB 2292** under Rule 4, Section 32(c)(3) of the House Rules on the grounds that the committee report does not contain a statement indicating whether or not rulemaking authority is delegated.

The speaker overruled the point of order, speaking as follows:

Mrs. Thompson raises a point of order under Rule 4, Sec. 32(c)(3) in that the rulemaking statement does not reference rulemaking authority granted the commissioner.

The chair finds that the sections referenced are not independent grants of rulemaking authority.

Accordingly, the point of order is respectfully overruled.

Amendment No. 134

Representative Heflin offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the appropriately numbered section as follows:

SECTION ____ Subchapter B, Chapter 531, Government Code, is amended by adding a new Section 531.076 to read as follows:

Section 531.076 UP TO SIX-BED FACILITY MODEL AUTHORIZED. (a) The commission shall develop a plan to permit the use of a residential program model of a facility of up to six beds in the Mental Retardation Medicaid Waiver program under the authority of the Department of Mental Health and Mental Retardation.

(b) The plan described in this section shall provide for retaining a three-bed facility model and a planned, organized transition from the four-bed facility model to the six-bed facility model, which shall include:

(1) the evaluation of the feasibility of, and legal and liability considerations related to, the use of contracted workers in a residential setting, including any impediments in current state regulations relating to the elimination of the staff live-in limits and consumer residential assistance delegations, and

(2) the development of a reimbursement rate for each residential model that considers cost factors including but not limited to:

(A) the adequacy of the current rate structure of the three-bed and four-bed facility models and the rate for the six-bed facility model;

(B) the adequacy of the occupancy factor;

(C) the adequacy of the resident leave factor;

(D) the transition costs, including those related to real estate, vehicles, federal safety standards, and consumer movement cost factors; and

(E) the inclusion of the same wage assumptions for direct support staff that are provided under the reimbursement methodology for ICF-MR facilities.

(3) The plan shall be developed with the assistance of a work group which shall include members of the staff of the commission, representatives of public providers, private providers, and advocates. The plan shall be submitted to the Governor's Office of Budget and Planning, the House Appropriations Committee, and the Senate Finance Committee not later than September 1, 2004.

Amendment No. 134 was adopted. (Coleman and Thompson recorded voting no)

Amendment No. 135

Representative Heflin offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered section to the bill and renumbering subsequent sections accordingly:

SECTION ____ Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0355 to read as follows:

Sec. 533.0355. ALLOCATION OF DUTIES UNDER CERTAIN MEDICAID WAIVER PROGRAMS. (a) In this section, "waiver program" means the mental retardation local authority waiver program established under the state Medicaid program.

(b) A provider of services under the waiver program shall:

(1) develop a person directed plan and an individual program plan for each person who receives services from the provider under the waiver program;

(2) perform justification and implementation functions for the plans described by Subdivision (1);

(3) conduct case management under the waiver program, other than case management under Subsection (c)(4), in accordance with applicable state and federal laws; and

(4) plan, coordinate, and review the provision of services to all persons who receive services from the service provider under the waiver program.

(c) A local mental retardation authority shall:

(1) manage any waiting lists for services under the waiver program;

(2) screen and assess persons who may receive services under the waiver program and perform any functions relating to inventory for those persons and agency planning assessments;

(3) perform functions relating to consumer choice and enrollment for persons who receive services under the waiver program;

(4) conduct case management under the waiver program relating to funding disputes between a service provider and the local mental retardation authority; and

(5) manage an appeals process relating to decisions that affect a person receiving services under the waiver program.

(d) The department shall perform all administrative functions under the waiver program that are not assigned to a service provider under Subsection (b) or to a local mental retardation authority under Subsection (c). Administrative functions performed by the department include any surveying, certification, and utilization review functions required under the waiver program.

(e) The department shall review case management fees paid under the waiver program to a community center and administrative fees paid under the waiver program to a service provider. The review must include a comparison of fees paid before the implementation of this section with fees paid after the implementation of this section. The department may adjust fees paid based on that review.

(f) The department shall allocate the portion of the gross reimbursement funds paid to a local authority and a service provider for client services for the case management function in accordance with this section and to the extent allowed by law.

(g) The department may adopt rules governing the functions of a local mental retardation authority or service provider under this section.

Amendment No. 135 was adopted without objection.

Amendment No. 136

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 119, line 8, strike "Subsections (d) and (g)" and substitute "Subsection (g)".

(2) On page 119, strike lines 10-27 and on page 120, strike lines 1-26.

Amendment No. 136 was withdrawn.

Amendment No. 137

Representative J. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered sections to the bill and renumbering subsequent sections accordingly:

SECTION _____. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.049 to read as follows:

Sec. 533.049. PRIVATIZATION OF STATE SCHOOL. (a) After August 31, 2004, and before September 1, 2005, the department may contract with a private service provider to operate a state school only if:

(1) the Health and Human Services Commission determines that the private service provider will operate the state school at a cost that is at least 10 percent less than the cost to the department to operate the state school;

(2) the Health and Human Services Commission approves the contract;
and

(3) the state school, when operated under the contract, treats a population with the same characteristics and need levels as the population treated by the state school when operated by the department.

(b) On or before April 1, 2004, the department shall report to the commissioner of health and human services whether the department has received a proposal by a private service provider to operate a state school. The report must include an evaluation of the private service provider's qualifications, experience, and financial strength, a determination of whether the provider can operate the state school under the same standard of care as the department, and an analysis of the projected savings under a proposed contract with the provider. The savings analysis must include all department costs to operate the state school, including costs, such as employee benefits, that are not appropriated to the department.

(c) If the department contracts with a private service provider to operate a state school, the department, the governor's office of budget and planning, and the Legislative Budget Board shall identify sources of funding that must be transferred to the department to fund the contract.

(d) The department may renew a contract under this section. The conditions listed in Subsections (a)(1)-(3) apply to the renewal of the contract.

SECTION _____. Section 533.049, Health and Safety Code, as added by this Act, takes effect September 1, 2004.

Amendment No. 137 was adopted without objection.

Amendment No. 138

Representative J. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered sections to the bill and renumbering subsequent sections accordingly:

SECTION __. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.050 to read as follows:

Sec. 533.050. PRIVATIZATION OF STATE MENTAL HOSPITAL. (a) After August 31, 2004, and before September 1, 2005, the department may contract with a private service provider to operate a state mental hospital owned by the department only if:

(1) the Health and Human Services Commission determines that the private service provider will operate the hospital at a cost that is at least 10 percent less than the cost to the department to operate the hospital;

(2) the Health and Human Services Commission approves the contract;
and

(3) the hospital, when operated under the contract, treats a population with the same characteristics and acuity levels as the population treated at the hospital when operated by the department.

(b) On or before April 1, 2004, the department shall report to the commissioner of health and human services whether the department has received a proposal by a private service provider to operate a state mental hospital. The report must include an evaluation of the private service provider's qualifications, experience, and financial strength, a determination of whether the provider can operate the hospital under the same standard of care as the department, and an analysis of the projected savings under a proposed contract with the provider. The savings analysis must include all department costs to operate the hospital, including costs, such as employee benefits, that are not appropriated to the department.

(c) If the department contracts with a private service provider to operate a state mental hospital, the department, the governor's office of budget and planning, and the Legislative Budget Board shall identify sources of funding that must be transferred to the department to fund the contract.

(d) The department may renew a contract under this section. The conditions listed in Subsections (a)(1)-(3) apply to the renewal of the contract.

SECTION __. Section 533.050, Health and Safety Code, as added by this Act, takes effect September 1, 2004.

Amendment No. 138 was adopted without objection.

Amendment No. 139

Representative Delisi offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter C, Chapter 562, Occupations Code, is amended by adding Sections 562.1085 and 562.1086 to read as follows:

Sec. 562.1085. UNUSED DRUGS RETURNED BY CERTAIN PHARMACISTS. (a) A pharmacist who practices in or serves as a consultant for a health care facility in this state may return to a pharmacy certain unused drugs, other than a controlled substance as defined by Chapter 481, Health and Safety Code, purchased from the pharmacy as provided by board rule. The unused drugs must:

(1) be approved by the federal Food and Drug Administration and be:

(A) sealed in the manufacturer's original unopened tamper-evident packaging and either individually packaged or packaged in unit-dose packaging;

(B) oral or parenteral medication in sealed single-dose containers approved by the federal Food and Drug Administration;

(C) topical or inhalant drugs in sealed units-of-use containers approved by the federal Food and Drug Administration; or

(D) be parenteral medications in sealed multiple-dose containers approved by the federal Food and Drug Administration from which doses have not been withdrawn; and

(2) not be the subject of a mandatory recall by a state or federal agency or a voluntary recall by a drug seller or manufacturer.

(b) A pharmacist for the pharmacy shall examine a drug returned under this section to ensure the integrity of the drug product. A health care facility may not return a drug that:

(1) has been compounded;

(2) appears on inspection to be adulterated;

(3) requires refrigeration; or

(4) has less than 120 days until the expiration date or end of the shelf life.

(c) The pharmacy may restock and redistribute unused drugs returned under this section.

(d) The pharmacy shall reimburse or credit the state Medicaid program for an unused drug returned under this section.

(e) The board shall adopt the rules, policies, and procedures necessary to administer this section, including rules that require a health care facility to inform the Health and Human Services Commission of medicines returned to a pharmacy under this section.

Sec. 562.1086. LIMITATION ON LIABILITY. (a) A pharmacy that returns unused drugs and a manufacturer that accepts the unused drugs under Section 562.1085 and the employees of the pharmacy or manufacturer are not liable for harm caused by the accepting, dispensing, or administering of drugs returned in strict compliance with Section 562.1085 unless the harm is caused by:

(1) willful or wanton acts of negligence;

(2) conscious indifference or reckless disregard for the safety of others;

or

(3) intentional conduct.

(b) This section does not limit, or in any way affect or diminish, the liability of a drug seller or manufacturer under Chapter 82, Civil Practice and Remedies Code.

(c) This section does not apply if harm results from the failure to fully and completely comply with the requirements of Section 562.1085.

(d) This section does not apply to a pharmacy or manufacturer that fails to comply with the insurance provisions of Chapter 84, Civil Practice and Remedies Code.

SECTION __. Section 32.028, Human Resources Code, is amended by adding Subsection (i), (j), and (k) to read as follows:

(i) The Health and Human Services Commission shall adopt rules governing the determination of the amount of reimbursement or credit for restocking drugs under Section 562.1085, Occupations Code, that recognize the costs of processing the drugs, including the cost of:

(1) reporting the drug's prescription number and date of original issue;

(2) verifying whether the drug's expiration date or the drug's recommended shelf life exceeds 120 days;

(3) determining the source of payment; and

(4) preparing credit records.

(j) The commission shall provide an electronic system for the issuance of credit for returned drugs that complies with the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as amended. To ensure a cost-effective system, only drugs for which the credit exceeds the cost of the restocking fee by at least 100 percent are eligible for credit.

(k) The commission shall establish a task force to develop the rules necessary to implement Subsections (i) and (j). The task force must include representatives of nursing facilities and long-term care facilities.

SECTION __. Section 431.021, Health and Safety Code, is amended to read as follows:

Sec. 431.021. PROHIBITED ACTS. The following acts and the causing of the following acts within this state are unlawful and prohibited:

(a) the introduction or delivery for introduction into commerce of any food, drug, device, or cosmetic that is adulterated or misbranded;

(b) the adulteration or misbranding of any food, drug, device, or cosmetic in commerce;

(c) the receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(d) the distribution in commerce of a consumer commodity, if such commodity is contained in a package, or if there is affixed to that commodity a label that does not conform to the provisions of this chapter and of rules adopted under the authority of this chapter; provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons:

(1) are engaged in the packaging or labeling of such commodities; or

(2) prescribe or specify by any means the manner in which such commodities are packaged or labeled;

(e) the introduction or delivery for introduction into commerce of any article in violation of Section 431.084, 431.114, or 431.115;

(f) the dissemination of any false advertisement;

(g) the refusal to permit entry or inspection, or to permit the taking of a sample or to permit access to or copying of any record as authorized by Sections 431.042-431.044; or the failure to establish or maintain any record or make any report required under Section 512(j), (l), or (m) of the federal Act, or the refusal to permit access to or verification or copying of any such required record;

(h) the manufacture within this state of any food, drug, device, or cosmetic that is adulterated or misbranded;

(i) the giving of a guaranty or undertaking referred to in Section 431.059, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in this state from whom the person received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in Section 431.059, which guaranty or undertaking is false;

(j) the use, removal, or disposal of a detained or embargoed article in violation of Section 431.048;

(k) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale after shipment in commerce and results in such article being adulterated or misbranded;

(l)(1) forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under this chapter or the regulations promulgated under the provisions of the federal Act;

(2) making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing on any drug or container or labeling thereof so as to render such drug a counterfeit drug;

(3) the doing of any act that causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug;

(m) the using by any person to the person's own advantage, or revealing, other than to the commissioner, an authorized agent, a health authority or to the courts when relevant in any judicial proceeding under this chapter, of any information acquired under the authority of this chapter concerning any method or process that as a trade secret is entitled to protection;

(n) the using, on the labeling of any drug or device or in any advertising relating to such drug or device, of any representation or suggestion that approval of an application with respect to such drug or device is in effect under Section 431.114 or Section 505, 515, or 520(g) of the federal Act, as the case may be, or that such drug or device complies with the provisions of such sections;

(o) the using, in labeling, advertising or other sales promotion of any reference to any report or analysis furnished in compliance with Sections 431.042-431.044 or Section 704 of the federal Act;

(p) in the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor of the drug to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter that is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal Act. Nothing in this subsection shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this chapter;

(q)(1) placing or causing to be placed on any drug or device or container of any drug or device, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing;

(2) selling, dispensing, disposing of or causing to be sold, dispensed, or disposed of, or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug, device, or any container of any drug or device, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by Subdivision (1) of this subsection; or

(3) making, selling, disposing of, causing to be made, sold, or disposed of, keeping in possession, control, or custody, or concealing with intent to defraud any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing on any drug or container or labeling of any drug or container so as to render such drug a counterfeit drug;

(r) dispensing or causing to be dispensed a different drug in place of the drug ordered or prescribed without the express permission in each case of the person ordering or prescribing;

(s) the failure to register in accordance with Section 510 of the federal Act, the failure to provide any information required by Section 510(j) or (k) of the federal Act, or the failure to provide a notice required by Section 510(j)(2) of the federal Act;

(t)(1) the failure or refusal to:

(A) comply with any requirement prescribed under Section 518 or 520(g) of the federal Act; or

(B) furnish any notification or other material or information required by or under Section 519 or 520(g) of the federal Act;

(2) with respect to any device, the submission of any report that is required by or under this chapter that is false or misleading in any material respect;

(u) the movement of a device in violation of an order under Section 304(g) of the federal Act or the removal or alteration of any mark or label required by the order to identify the device as detained;

(v) the failure to provide the notice required by Section 412(b) or 412(c), the failure to make the reports required by Section 412(d)(1)(B), or the failure to meet the requirements prescribed under Section 412(d)(2) of the federal Act;

(w) except as provided under Subchapter M of this chapter and Section 562.1085, Occupations Code, the acceptance by a person of an unused prescription or drug, in whole or in part, for the purpose of resale, after the prescription or drug has been originally dispensed, or sold;

(x) engaging in the wholesale distribution of drugs or operating as a distributor or manufacturer of devices in this state without filing a licensing statement with the commissioner as required by Section 431.202 or having a license as required by Section 431.272, as applicable;

(y) engaging in the manufacture of food in this state or operating as a food wholesaler in this state without having a license as required by Section 431.222; or

(z) unless approved by the United States Food and Drug Administration pursuant to the federal Act, the sale, delivery, holding, or offering for sale of a self-testing kit designed to indicate whether a person has a human immunodeficiency virus infection, acquired immune deficiency syndrome, or a related disorder or condition.

SECTION __. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION __. (a) The Texas State Board of Pharmacy shall adopt the rules required by Section 562.1085, Occupations Code, as added by this Act, not later than December 1, 2003.

(b) Notwithstanding Section 562.1085, Occupations Code, as added by this Act, a pharmacy is not required to accept unused drugs from a health care facility before January 1, 2004.

SECTION __. The Health and Human Services Commission shall adopt the rules required by Section 32.028(i) and (j), Human Resources Code, as added by this Act, not later than December 1, 2003.

SECTION __. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Amendment No. 139 was adopted without objection.

Amendment No. 140

On behalf of Representative Miller, Representative J. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following new SECTION, appropriately numbered, and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 531.021, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The commission in its adoption of reasonable rules and standards under Subsection (b)(2) shall include financial performance standards that, in the event of a proposed rate reduction, provide private ICF-MR facilities and home and

community-based services providers with flexibility in determining how to use medical assistance payments to provide services in the most cost-effective manner.

Amendment No. 140 was adopted without objection.

Amendment No. 141

Representative Chisum offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION _____. Chapter 170, Health and Safety Code, is amended by adding Section 170.003 to read as follows:

Sec. 170.003. GRANTS OR LOANS TO ABORTION PROVIDERS PROHIBITED. (a) Notwithstanding any other law, money appropriated by the legislature for a grant or loan program may not be awarded under the program to an entity that performs abortions or to an affiliate of such an entity.

(b) Notwithstanding Section 170.001, in this section "abortion" has the meaning assigned by Section 245.002.

CSHB 2292 - STATEMENT OF LEGISLATIVE INTENT

Amendment No. 141

REPRESENTATIVE DUNNAM: Mr. Chisum, I just want to discuss, if we could, some of the—whether they're unintended or intended effects of this amendment, I'm not sure. But it's my understanding that some health care providers, for example in the valley, a lot of people will go to certain clinics to get immunizations and things that really have nothing to do with abortions.

REPRESENTATIVE CHISUM: That's correct.

DUNNAM: And those facilities receive money that helps pay for those immunizations, is that correct?

CHISUM: I believe that is correct.

DUNNAM: Alright, and so if that facility—under your amendment, if that facility offered abortions to other clients, they would not be allowed to receive any money to pay for immunizations for children.

CHISUM: They would not be allowed to receive a grant or a loan, and therefore would receive no money, that's correct.

DUNNAM: So they basically, they would be, they would not receive any grants or loans that would help them pay for immunizations for children, or wellness checks for mothers, or any other type of health care service, regardless of how far-fetched it was, or how far unrelated it was to abortion type procedures.

CHISUM: That's correct, if they performed abortions.

DUNNAM: And what is—is that the intended effect of this amendment? Is that your intention?

CHISUM: That is the intention, yes.

DUNNAM: Your intention is that the state will not—no one will be able to provide immunizations and non-abortion related medical procedures to people—or they won't be able to have loans or grants to help pay for those types of medical services if the facility performs abortions to other clients?

CHISUM: That's right, if they don't do that then they certainly are in line to receive those grants and loans or anything else.

REPRESENTATIVE DUKES: Members, this amendment that is being offered by Representative Chisum has far-reaching consequences. I can understand Representative Chisum standing by his principles, being in opposition to abortion. But this amendment does more than that. The health clinics—the centers that receive these funds, which are largely federal funds in their purpose, do more than what Representative Chisum is trying to touch.

These facilities, less than 2.7 percent of the young ladies who come there are coming there for unintended pregnancy purposes. Less than 2.7 percent of the young ladies that go to these facilities are there for unintended pregnancies. What the majority of them are there for, are for preventative services—for risk reduction education, for breast screening, for cervical cancer screening, which is where the front line of breast cancer and cervical cancer screening is found, are in these facilities. For diabetes, for hypertension, for anemia, for kidney disease and infections, and for screening for STDs.

The majority of the people who are going to these facilities are individuals who are on Medicaid, who can't afford to go to another doctor or another clinic. Not only will this amendment curb funds from those facilities, but members, this amendment will also take money away from UTMD-Galveston, take money away from UT Southwestern Dallas, from the Baylor College of Medicine, from Texas Tech, from any community action agency, any community health center, any hospital district, as well as what Representative Chisum is attempting to capture here, which are the Planned Parenthoods.

This amendment has far-reaching consequences. And if you don't know, the majority of the women in this state under age 19—74 percent are on Medicaid. And you will be denying the ability to get services where we can prevent them from having other children unintendedly. You would be doing nothing but creating a greater financial burden for the State of Texas, because they will eventually need medical assistance. Those babies who are born by these women will have to be covered by Medicaid and by federal law, you will not be able to deny them, but the state will have to put up the maintenance and effort. That's additional dollars that we will have to find over and above the 2.7 billion that Ms. Strayhorn said we didn't have in **HB 1**.

Those young ladies who are falling below the poverty level, those who are below 133 percent will still need services, and Medicaid will require us—because they're under 19—to still serve them. And we will have to put up the maintenance and effort for so doing. We will be denying young ladies, and their babies, and men who go in for prostate screening and other services, the ability to get it at a much cheaper rate. Instead, the burden will turn to our county hospitals, our city hospitals—there is no place else these services will be provided.

I cannot stress to you enough, members, that this amendment is far-reaching. Very far-reaching, and any place, any hospital, any medical school, any place that for any reason has had to provide either an emergency abortion or has had to teach it, and you and I both know, although you may be opposed to it some of you, teaching it is far more important than going to a back alley with a butcher knife.

This is a very far-reaching amendment. Unless you want to be the guillotine for so many young women in Texas, do not vote for this amendment.

REPRESENTATIVE VILLARREAL: Mr. Chisum, in my district I have a clinic that happens to be run by Planned Parenthood. They perform no abortions there. They provide mostly preventative care, and they do some treatment, but they provide no abortions. Many men and women, both, receive services—very important, critical services, health care services, at that clinic. What your amendment will do, is shut down a very important clinic in my district, and in many other districts around this state, from providing basic health care services. You don't want to put off the care to our constituents?

CHISUM: I have no intention of cutting off the care to your constituents, and if they are just next door to a Planned Parenthood organization, that doesn't cut them off. So, if they're under some other name or some other—and they're not associated with Planned Parenthood that does provide abortions—then there's nothing in this that cuts them off from receiving the grants or performing the duties that you say they perform.

VILLARREAL: Do you think that cutting off the supply of providing a legal and perfectly acceptable health care procedure like an abortion will cut off the demand for such services?

CHISUM: I have no idea, we've never cut it off that I can recall, whether it would cut off the demand for it or not. I mean, it's—

VILLARREAL: I agree with you—

CHISUM: If you're talking about health care—

VILLARREAL: I agree with you, at one time we did make illegal the supply of this procedure. But that never caused demand to stop. It is important that we keep this service in a health care clinic that is suitable, and safe, and accessible.

CHISUM: And I agree with all of those things, it's just under this program they should not receive loans and grants if they're going to provide abortions, they need to do it through another source.

VILLARREAL: I understand where you're going, and I appreciate your values and I encourage you to—actually to stop—but I would like to encourage you to do it on some other bill. This isn't the right vehicle and it's certainly not appropriate, don't you think, to cut off clinics that provide health care services that are preventative care and even treatment, nothing to do with abortion?

CHISUM: And if they have nothing to do with abortion, then I have no intention of cutting those off from doing services. I think they should continue to do that.

VILLARREAL: Maybe there's one point that hasn't been considered, and that is that this service is really part of a continuum of different types of health care services. When a woman needs to receive a treatment, maybe she's trying to plan a pregnancy and something goes awry, or a woman gets raped, or incest takes place on a young child, there needs to be some option out there. This amendment, I believe, cuts off that option.

CHISUM: Well you know, I can't help what you believe. I mean, all I'm saying is I don't want to shut down your clinic that you say does not provide abortions, nothing in this would shut that clinic down and I hope that it wouldn't shut down, because it should provide services. But, you know, as a taxpayer of the State of Texas, I'm not in favor of having my tax dollars spent to provide abortions. That's basically it.

VILLARREAL: What if it does, though?

CHISUM: Well, I'm not in favor of doing that, and that's the reason I'm here, is to make sure that we direct those funds to another source.

VILLARREAL: Thank you.

REPRESENTATIVE TALTON: Representative Chisum, if I understand right, your amendment would cut off anybody that performs, or is affiliated with, committing abortions or performing—could not get a grant or a loan, is that correct?

CHISUM: That's correct, it's just a grant or a loan they might receive and none of this—they could not receive that.

TALTON: Nor could they refer—could they refer people for an abortion?

CHISUM: There's nothing in here that says they couldn't refer a patient to another hospital, another clinic, wherever they want to. So if they don't perform it and they're not affiliated with someone that performs it, they're affiliating them to their own particular organization, they could refer their people from their clinic to anybody else they wanted to.

TALTON: So what Representative Villarreal was talking about, if his group or his clinic did not perform any abortions, then he doesn't have anything to worry about, that clinic doesn't, do they?

CHISUM: No.

TALTON: Thank you.

REPRESENTATIVE COLEMAN: Representative Chisum, let's, I'm just going to ask some questions so that I can understand your intent.

CHISUM: Alright.

COLEMAN: By this amendment, it is your intention to cut off the services to—or grants, or whatever, what it says in there—to any facility that provides abortions in the State of Texas, that receives grants for other things under our statute or under our appropriations act, is that correct?

CHISUM: If they provide abortions or are affiliated, that is true.

COLEMAN: Let me ask you something, are abortions illegal?

CHISUM: No sir, they are not.

COLEMAN: Okay. So, what we're going to do here is prohibit someone who's providing a legal service, a legal medical service through state statute, and segment them off from other providers based on the fact that they provide a legal medical procedure in the State of Texas.

CHISUM: Well it's not "a", it's "the legal" performance of abortions, so it's not just "a legal", it's—

COLEMAN: No, it's legal.

CHISUM: I understand it's legal.

COLEMAN: The legal performance of an abortion.

CHISUM: It's the specific performance of abortion that would be covered.

COLEMAN: Legal and specific.

CHISUM: That's right.

COLEMAN: Is this targeted specifically at Planned Parenthood of Texas?

CHISUM: I am not at all advised of how many organizations provide abortions.

COLEMAN: Well, let's say, do you know what organizations this would affect?

CHISUM: Well, I'm assuming that there's many, probably even county hospitals and state hospitals that may in fact provide abortions, and maybe other organizations out there, I have no idea. This does not name any particular—

COLEMAN: But it's interesting that in your language you, and you would agree, that you included affiliates.

CHISUM: Thank you.

COLEMAN: Yeah. So, just, so the purpose of this amendment—I just want to make sure and then I'm going to stop—your goal is through this action to limit access to legal and safe abortion in Texas.

CHISUM: No, this has nothing to do with access, wherever they're getting it. All this does is cut off the funding—

COLEMAN: Right, but by cutting off the funding to an agency that provides that service, what is your goal?

CHISUM: My goal is to not provide loans or grants to an agency that provides abortions, or that's an affiliate of an agency that provides abortions.

COLEMAN: And where would the end result of that be, based on the fact that we already say that those funds can't be commingled, they can't be, they can't subsidize anything, that's in the law now? What are you trying to do besides just that?

CHISUM: Well, I think it's pretty self-explanatory, it says that no grants or loans to—

COLEMAN: I understand what it says.

CHISUM: —abortion providers, that would just be prohibited. That's what it is, so if you provide abortions, then you're not going to get grants or loans through this program.

COLEMAN: Okay, well does that mean we should now start segmenting out people that do other types of procedures, or people because of the color of their skin, or because they're a woman, or whatever else?

CHISUM: I don't believe there's anything in this amendment that addresses that issue, either side.

COLEMAN: Well, I just want to make sure, because you're segmenting and creating a class and I just wanted to understand.

CHISUM: No, it's a practice, it's not a class.

COLEMAN: I understand, but you're segmenting a legal practice—

CHISUM: It has nothing to do with class, it's a practice.

COLEMAN: You're segmenting a legal practice, Mr. Chisum.

REPRESENTATIVE WOOLLEY: Representative Chisum, I just want to ask you a couple of questions, because I think there's some misunderstanding. Would you tell me just what funds are involved in this?

CHISUM: It's grants or a loan program under 107 of the Health and Safety Code.

WOOLLEY: Which is? Could you explain to me what that is?

CHISUM: Well, it's grants through the Health Department to immunization clinics around this state.

WOOLLEY: Does that include any hospital that might do an abortion as an emergency, like to save the life of the mother? I mean, does that affect all their funding, or is it specific funding, or is it, I just would like a little clarification.

CHISUM: It's not all their funding, but it is those grants and loans that are provided under 107 of the Health and Safety Code, and it's a very limited amount of money, these grants and loans are. It would just cut those grants and loans, it would eliminate those for any group that provided abortions or that was affiliated with someone who provided abortions.

WOOLLEY: In speaking with Representative Wohlgemuth, she indicated that that was the TIF money?

CHISUM: TIF money, that's correct.

WOOLLEY: Well, I didn't even know TIF money went to, towards that sort of thing, but it would, you are inclusive of any single hospital—

REMARKS ORDERED PRINTED

Representative Dunnam moved to print the debate on Amendment No. 141.

The motion prevailed without objection.

Amendment No. 141- Point of Order

Representative Dunnam raised a point of order against further consideration of Amendment No. 141 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The point of order was withdrawn.

Amendment No. 141 was withdrawn.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness in the family:

Oliveira on motion of Luna.

Amendment No. 142

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) On page 119, line 8, strike "Subsections (d) and (g)" and substitute "Subsection (g)".

(2) On page 119, strike lines 10-27 and on page 120, strike lines 1-26.

Amendment No. 142 was adopted without objection.

Amendment No. 143

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered Section of the bill and renumbering the remaining Sections of the bill as appropriate:

SECTION _____. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.076 to read as follows:

Sec. 531.076. MEDICAID PROGRAM. (a) The commissioner shall ensure that the state medicaid program implements 42 U.S.C. 1396p(b)(1).

(b) The medicaid account is an account in the general revenue fund. Any funds recovered by implementing 42 U.S.C. 1396p(b)(1) shall be deposited in the medicaid account. Money in the account may be appropriated only to fund long-term care, including community-based care and facility-based care.

Amendment No. 143 was adopted without objection.

Amendment No. 144

Representative Uresti offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by adding the following appropriately numbered SECTION to Article 2 of the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) A change in law made by this article to Section 242.047, Health and Safety Code, that requires the Texas Department of Health to accept an annual accreditation review from the Joint Commission on Accreditation of Health Organizations for a nursing home in satisfaction of the requirements for certification:

(1) applies only to a nursing home that participates in the medical assistance program under Chapter 32, Human Resources Code, before September 1, 2003; and

(2) may be implemented only as a pilot program.

(b) A pilot program operated in accordance with this section expires September 1, 2007.

Amendment No. 144 was adopted without objection.

Amendment No. 145

Representatives Raymond and J. Davis offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

(1) Except as otherwise provided by this amendment, in Sections 1.09-1.14, strike "executive director" wherever it appears in that Article, regardless of whether it is underlined or capitalized, and substitute "commissioner", underlined or capitalized as appropriate.

(2) Except as otherwise provided by this amendment, in Sections 1.09-1.13, strike "commissioner" wherever it appears in that Article, regardless of whether it is underlined or capitalized, and substitute "commissioner of health and human services", underlined or capitalized as appropriate.

(3) On page 3, lines 15 and 16, strike "[~~director,~~] executive director [~~,-or commissioner~~]" and substitute "[~~director, executive director, or~~] commissioner."

(4) On page 12, line 5, strike "executive director" and substitute "agency commissioner".

(5) On page 18, strike line 1 and substitute "services".

(6) On page 18, strike lines 5 and 6.

(7) On page 29, strike lines 3-7 and substitute the following:

amended by adding Subdivision (2-a) and amending Subdivision (4) to read as follows:

(2-a) "Council" means the Protective Services Council.

(4) "Commissioner" [~~"Executive director"~~] means the commissioner [~~executive director~~] of the Department of Protective [~~and Regulatory~~] Services.

(8) On page 36, lines 12 and 13, strike "of health and human services" and substitute "of supportive services".

(9) On page 36, strike lines 18 and 19.

Amendment No. 145 was adopted without objection.

Amendment No. 146

Representative Luna offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** on page 123 by inserting the following between lines 8 and 9:

(e) The rules adopted by the department under this section must provide that it is an affirmative defense to the imposition of sanctions or penalties that a person's failure to cooperate with the requirements of the responsibility agreement resulted from the failure of the department, the Texas Workforce Commission, or a local workforce development board to perform a duty. Sanctions or penalties may not be imposed on a person until the department determines that the department, the Texas Workforce Commission, and the local workforce development board, as applicable, have complied with their respective performance measures.

Representative Wohlgemuth moved to table Amendment No. 146.

A record vote was requested.

The motion to table prevailed by (Record 362): 64 Yeas, 39 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Callegari; Casteel; Chisum; Christian; Cook, B.; Corte; Crownover; Dawson; Delisi; Denny; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Harper-Brown; Hartnett; Heflin; Hill; Hope; Howard; Hunter; Hupp; Keel; Keffer, B.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; Morrison; Mowery; Paxton; Phillips; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Brown, F.; Capelo; Castro; Chavez; Coleman; Crabb; Davis, J.; Deshotel; Dukes; Dunnam; Edwards; Garza; Giddings; Gutierrez; Haggerty; Hamric; Hardcastle; Hegar; Hochberg; Hopson; Hughes; Jones, J.; Keffer, J.; Laney; Lewis; Luna; McCall; Mercer; Naishtat; Pickett; Pitts; Puente; Ritter; Rodriguez; Rose; Thompson; Uresti; Villarreal; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cook, R.; Eiland; Ellis; Goodman; Hilderbran; Isett; Jones, E.; McClendon; Oliveira; Turner.

Absent — Alonzo; Bailey; Burnam; Campbell; Canales; Davis, Y.; Driver; Dutton; Farabee; Farrar; Flores; Gallego; Guillen; Hodge; Homer; Jones, D.; Mabry; Martinez Fischer; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Nixon; Noriega; Olivo; Peña; Quintanilla; Raymond; Smithee; Solis; Telford; Wise; Wolens.

STATEMENTS OF VOTE

When Record No. 362 was taken, I was in the house but away from my desk. I would have voted no.

Guillen

When Record No. 362 was taken, I was temporarily out of the house chamber. I would have voted no.

Menendez

When Record No. 362 was taken, I was in the house but away from my desk. I would have voted no.

Peña

When Record No. 362 was taken, my vote failed to register. I would have voted no.

Raymond

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Castro on motion of Chavez.

Y. Davis on motion of Thompson.

Miller on motion of Callegari.

Solis on motion of Uresti.

CSHB 2292 - (consideration continued)

Amendment No. 147

Representative Hartnett offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

On page 111, strike lines 10-13 and insert the following:

(1) establishing and maintaining a list of webpages and toll-free "800" telephone ~~[number to]~~ numbers of non-profit entities which provide crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling;

Amendment No. 147 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Campbell on motion of Baxter.

Driver on motion of Krusee.

Martinez Fischer on motion of Hopson.

CSHB 2292 - (consideration continued)

Amendment No. 148

Representative Wohlgemuth offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** as follows:

Section 2.12. On page 70, line 13, insert new subsections (a-1) and (a-2) to read as follows:

(a-1) The commission shall delay requiring a prior authorization for drugs listed in subsection (b) until the commission has completed a study evaluating the impact of a requirement of prior authorization on the recipients of certain drug classes.

(a-2) Drugs subject to the study in subsection (b) include drugs used in the treatment of:

- (1) cancer and cancer-supportive care,
- (2) End-stage Renal Disease,
- (3) chronic non-malignant pain,
- (4) hemophilia, and
- (5) multiple sclerosis.

Amendment No. 148 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Farabee on motion of Villarreal.

Homer on motion of Villarreal.

CSHB 2292 - (consideration continued)

Amendment No. 149

Representative Howard offered the following amendment to **CSHB 2292**:

Amend **CSHB 2292** by inserting the following new SECTION, appropriately numbered, and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. (a) Chapter 32, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. ALTERNATIVE PREGNANCY OPTIONS GRANT PROGRAM

Sec. 32.101. GRANT PROGRAM. (a) The department by rule shall establish a grant program to fund services to help ensure healthy and full-term pregnancies.

(b) Under the grant program, the department shall provide grants to qualified persons that provide services to pregnant women regarding healthy childbirth, adoption, and parenting, including:

- (1) crisis intervention services;
- (2) support services;
- (3) prenatal information; and
- (4) information referrals.

(c) The grant program must include appropriate reporting and accounting requirements as necessary to ensure that money received under the program is used for the purposes of the program.

Sec. 32.102. INELIGIBILITY TO RECEIVE GRANT. A person is ineligible to receive a grant under this subchapter if:

(1) the person directly or indirectly promotes, performs, or provides abortions or abortion services, or provides referrals to other persons that provide abortions or abortion services; or

(2) the person is associated or affiliated with a person described by Subdivision (1).

(b) Section 32.002(a), Health and Safety Code, is amended by amending Subdivision (13) and adding Subdivision (16) to read as follows:

(13) "Program" means the maternal and infant health improvement services program authorized by this subchapter ~~[chapter]~~.

(16) "Grant program" means the alternative pregnancy options grant program authorized by Subchapter C.

Amendment No. 150

Representative Howard offered the following amendment to Amendment No. 149:

Amend the Howard Amendment to **CSHB 2292** on page 1, line 7, by striking "The" and substituting "Using any available federal family planning grants, the".

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Bailey on motion of Luna.

Gallego on motion of Hochberg.

CSHB 2292 - (consideration continued)

Amendment No. 150 was adopted without objection.

Amendment No. 149 - Point of Order

Representative Dunnam raised a point of order against further consideration of Amendment No. 149 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Flores on motion of Gutierrez.

Hodge on motion of Thompson.

Olivo on motion of Thompson.

Rodriguez on motion of Coleman.

Smithee on motion of Bonnen.

HB 3533 - CORRECTION IN BILL REFERRAL

The speaker made the following statement:

Mr. Dunnam asked in an earlier parliamentary inquiry about the validity of the corrected referral earlier today of **HB 3533**, which relates to workers' compensation. Consistent with past practice, the chair corrected the referral at the request of the author and with the consent of both committee chairs.

However, having further reviewed the measure in response to Mr. Dunnam's request, the chair concluded that the original referral was the better referral and hereby refers the bill back to the Committee on Business & Industry.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Alonzo on motion of Thompson.

Farrar on motion of Naishtat.

Luna on motion of Thompson.

Mabry on motion of Naishtat.

J. Moreno on motion of Naishtat.

Noriega on motion of Naishtat.

Wise on motion of Naishtat.

CSHB 2292 - (consideration continued)**Point of Order Disposition - Amendment No. 149**

The point of order was withdrawn.

Amendment No. 151

Representative Dukes offered the following amendment to Amendment No. 149:

On Line 9, following "full-term pregnancies", add the following:

Entities funded by the Alternative Pregnancy Options Grant Program must have a physician medical director, at least one Registered Nurse, at least one professional counselor and other appropriate staff. These entities must adhere to the standards of medical care and ethical conduct adopted by the American College of Obstetricians and Gynecologists regarding the care of pregnant women and the standards of professional counseling for pregnant women recommended by the National Association of Social Workers and the American Psychiatric Association.

Amendment No. 151 was withdrawn.

Amendment No. 149 was withdrawn.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Merritt on motion of Kuempel.

CSHB 2292 - (consideration continued)

A record vote was requested.

The vote of the house was taken on the passage of **CSHB 2292** to engrossment and the vote was announced yeas 74, nays 33.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 363): 74 Yeas, 31 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hill; Hope; Howard; Hughes; Hunter; Hupp; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Capelo; Chavez; Coleman; Deshotel; Dukes; Dunnam; Dutton; Edwards; Garza; Giddings; Gutierrez; Haggerty; Hamilton; Hardcastle; Hochberg; Hopson; Jones, J.; Laney; Lewis; McReynolds; Menendez; Naishtat; Pickett; Puente; Raymond; Ritter; Rose; Thompson; Uresti; Villarreal; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo; Bailey; Campbell; Castro; Cook, R.; Davis, Y.; Driver; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Goodman; Hilderbran; Hodge; Homer; Isett; Jones, E.; Luna; Mabry; Martinez Fischer; McClendon; Merritt; Miller; Moreno, J.; Noriega; Oliveira; Olivo; Rodriguez; Smithee; Solis; Turner; Wise; Wolens.

Absent — Burnam; Canales; Guillen; Jones, D.; Moreno, P.; Peña; Quintanilla; Telford.

The speaker stated that **CSHB 2292**, as amended, passed to engrossment by the above vote.

STATEMENTS OF VOTE

When Record No. 363 was taken, I was temporarily out of the house chamber. I would have voted no.

Guillen

When Record No. 363 was taken, I was temporarily out of the house chamber. I would have voted no.

Peña

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Canales on motion of Coleman.

Wolens on motion of Heflin.

The following member was granted leave of absence temporarily for today because of important business:

Peña on motion of Raymond.

MAJOR STATE CALENDAR HOUSE BILLS SECOND READING

The following bills were laid before the house and read second time:

CSHB 730 ON SECOND READING (by Ritter, Edwards, King, Woolley, Seaman, et al.)

CSHB 730, A bill to be entitled An Act relating to residential construction, including certain warranties, building and performance standards, and dispute resolution; providing an administrative penalty.

Amendment No. 1

Representatives Ritter and Solomons offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

(1) On page 5, line 9, strike "EXEMPTION: OWNER-CONSTRUCTED HOME" and substitute "EXEMPTIONS".

(2) On page 5, line 9, between "HOME," and "This", insert "(a)".

(3) On page 5, between lines 16 and 17, insert the following:

(b) This title does not apply to a homeowner or to a homeowner's real estate broker, agent, or property manager who supervises or arranges for the construction of an improvement to a home owned by the homeowner.

Amendment No. 1 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

D. Jones on motion of B. Cook.

CSHB 730 - (consideration continued)**Amendment No. 2**

Representatives Ritter, Solomons, and King offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

(1) On page 5, line 21, strike "September 1, 2015" and substitute "September 1, 2007".

(2) On page 13, line 20, between "agencies" and ".", insert "and will post this public interest information on the commission's website".

(3) On page 15, line 11, strike "CONDITIONAL" and substitute "PROVISIONAL".

(4) On page 15, lines 11 and 12, strike "Before June 30, 2005, pending" and substitute "Pending".

(5) On page 15, line 13, strike "conditional" and substitute "provisional".

(6) On page 15, line 16, strike "without conditions".

(7) On page 15, line 18, strike "conditional" and substitute "provisional".

(8) On page 15, line 19, strike "January 1, 2006" and substitute "January 1, 2005".

(9) On page 21, line 3, strike "\$500" and substitute "\$5,000".

(10) On page 22, line 21, strike "contractor's" and substitute "builder's".

(11) On page 25, line 17, between "a person's name" and "is not disclosed", insert "is known to the requestor at the time of the request and".

(12) On page 25, line 18, strike "retain" and substitute "designate".

(13) On page 25, line 24, strike "EFFECT" and substitute "REBUTTABLE PRESUMPTION".

(14) On page 26, lines 2 and 3, strike "is presumed to be reasonable and dispositive" and substitute "shall constitute a rebuttable presumption".

(15) On page 39, insert a new SECTION 1.05 to read as follows:

"SECTION 1.05. On January 1, 2004, the Texas Residential Construction Commission shall begin collecting, and builders shall be required remit, the registration fees described in Section 426.003, Property Code, as added by this Act."

Amendment No. 2 was adopted without objection.

Amendment No. 2 - Vote Reconsidered

Representative Ritter moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

Amendment No. 3

Representative Ritter offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Ritter/King to **CSHB 730** on page 2 of the amendment, line 5, between "required" and "remit", by inserting "to".

Amendment No. 3 was adopted without objection.

Amendment No. 2, as amended, was adopted without objection.

Amendment No. 4

Representatives Ritter and Solomons offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

(1) On page 6, strike lines 2-7 and substitute the following:

(1) four members must be builders who each hold a certificate of registration under Chapter 416;

(2) three members must be representatives of the general public;

(3) one member must be a licensed professional engineer who practices in the area of residential construction; and

(4) one member must be a licensed architect who practices in the area of residential construction.

(2) On page 6, line 13, strike "two" and substitute "three".

(3) On page 6, line 14, strike "each odd-numbered year" and substitute "different odd-numbered years".

(4) On page 6, line 15, strike "terms of the two" and substitute "the term of one of the".

(5) On page 6, line 16, strike "different odd-numbered years" and substitute "each odd-numbered year".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Puente offered the following amendment to **CSHB 730**:

Amend **CSHB 730** on page 7, between lines 20 and 21, by inserting the following:

(d) A person may not be a commission employee described by Subsection (b) if the person is an employee or agent in the field of residential construction. This subsection does not apply to a person appointed to the commission.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representatives Ritter and Solomons offered the following amendment to **CSHB 730**:

Amend **CSHB 730** on page 19, between lines 14 and 15, by inserting the following and renumbering subdivisions appropriately:

(3) naming false consideration in a contract to sell a new home or in a construction contract;

(4) discriminating on the basis of race, color, religion, sex, national origin, or ancestry;

(5) publishing a false or misleading advertisement;

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representatives Solomons and Puente offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

- (1) On page 19, line 20, after the semicolon, insert "or".
- (2) On page 19, line 23, strike "or" and substitute "·".
- (3) On page 19, strike lines 24-25.
- (4) On page 23, strike lines 4-26.
- (5) On page 24, strike lines 12-19.
- (6) Renumber sections and cross-references in added Title 16, Property Code, appropriately.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Solomons offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

- (1) Strike page 33, lines 15-16 and substitute the following:
 - (2) include standards for mold reduction and remediation that comply with Section 430.002; and

- (2) On page 35, between lines 13 and 14, insert the following and renumber sections and cross-references in the bill appropriately:

Sec. 430.002. MOLD REDUCTION AND REMEDIATION; TASK FORCE. (a) The building and performance standards adopted under Section 430.001 must include measures that are designed to reduce the general population's exposure to mold often formed in water-damaged building materials and that include:

(1) methods by which mold, water damage, and microbial volatile compounds in indoor environments may be recognized; and

(2) recommended management practices for:

(A) limiting moisture intrusion in a home; and

(B) mold remediation.

(b) The commission shall appoint a task force to advise the commission with regard to adoption of standards under this section. The task force must include representatives of public health officers of this state, health and medical experts, mold abatement experts, and representatives of affected consumers and industries. The commission and the task force shall consider the feasibility of adopting permissible limits for exposure to mold in indoor environments.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Puente offered the following amendment to **CSHB 730**:

Amend **CSHB 730** on page 35, between lines 13 and 14, by inserting the following and renumbering sections and cross-references in the bill appropriately:

Sec. 430.002. CERTAIN DESIGN RECOMMENDATIONS; ADVISORY COMMITTEE. The commission shall appoint a task force to develop design recommendations for residential construction that encourage rain harvesting and water recycling.

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representatives Ritter and Solomons offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

(1) On page 48, strike lines 15-20 and substitute the following:

"(1) the reasonable cost of repairs necessary to cure any construction defect [~~including any reasonable and~~".

(2) On page 49, strike line 4 and substitute the following:

"any, after the construction defect is repaired if the construction defect is a [~~to the extent the reduction is due to~~] structural failure; and".

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representatives Ritter and Solomons offered the following amendment to **CSHB 730**:

Amend **CSHB 730** on page 51, by striking lines 19-20 and substituting the following:

(2) the homeowner may recover:

(A) reasonable and necessary attorney's and expert fees as identified in Section 27.004(g);

(B) reimbursement for improvements the owner made to the residence after the date the owner purchased the residence from the builder; and

(C) reasonable costs to move from the residence; and

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representatives Solomons and Puente offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

(1) On page 35, strike lines 14-27.

(2) On page 36, strike lines 1-27.

(3) On page 37, strike lines 1-13.

(4) On page 37, line 23, strike "or third party warranty company".

(5) On page 38, line 2, strike "or third party warranty company".

(6) Renumber sections, and cross-references in added Title 16, Property Code, appropriately.

Amendment No. 12 was withdrawn.

Amendment No. 13

Representatives Solomons and Puente offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

- (1) On page 35, strike lines 14-27.
- (2) On page 36, strike lines 1-27.
- (3) On page 37, strike lines 1-13.
- (4) On page 37, line 23, strike "or third party warranty company".
- (5) On page 38, line 2, strike "or third party warranty company".
- (6) Renumber sections, and cross-references in added Title 16, Property Code, appropriately.

Amendment No. 13 was withdrawn.

Amendment No. 14

Representatives Solomons and Ritter offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

- (1) On page 6, line 22, after the period, insert "At a regular meeting in February of each year, the commission shall elect from its membership a vice presiding officer and a secretary.".

Amendment No. 14 was adopted without objection.

Amendment No. 15

Representative Puente offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

- (1) On page 14, line 21, between "felony charge" and the semicolon, insert "or a misdemeanor involving moral turpitude".
- (2) On page 14, line 22, strike "for which" and substitute "or a misdemeanor involving moral turpitude and".
- (3) On page 14, line 23, strike "which" and substitute "the conviction".

Amendment No. 15 was adopted without objection.

Amendment No. 16

Representatives Solomons and Puente offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

- (1) On page 19, line 20, after the semicolon, insert "or".
- (2) On page 19, line 23, strike ": or" and substitute ":".
- (3) On page 19, strike lines 24-25.
- (4) On page 23, strike lines 4-26.
- (5) On page 24, strike lines 12-19.
- (6) Renumber sections and cross-references in added Title 16, Property Code, appropriately.

Amendment No. 16 was adopted without objection.

Amendment No. 17

Representative Solomons offered the following amendment to **CSHB 730**:

Amend **CSHB 730** as follows:

(1) On page 35, line 22, after the period, insert "Sec. 430.003. WAIVER BY CONTRACT PROHIBITED. A contract between a builder and a homeowner may not waive the limited statutory warranties and building and performance standards adopted under this chapter. This section does not prohibit a builder and a homeowner from contracting for more stringent warranties and building standards than are provided under this chapter.".

(2) Renumber sections, and cross-references in added Title 16, Property Code, appropriately.

Amendment No. 17 was adopted without objection.

(Peña now present)

A record vote was requested.

CSHB 730, as amended, was passed to engrossment by (Record 364): 81 Yeas, 21 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Capelo; Casteel; Chisum; Christian; Cook, B.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Dukes; Edwards; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Hill; Hope; Hopson; Howard; Hunter; Hupp; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Madden; Marchant; McCall; McReynolds; Mercer; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Reyna; Ritter; Rose; Seaman; Smith, W.; Solomons; Stick; Swinford; Taylor; Telford; Truitt; Van Arsdale; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Bonnen; Corte; Dutton; Garza; Giddings; Hartnett; Heflin; Hochberg; Hughes; Naishtat; Peña; Puente; Raymond; Riddle; Smith, T.; Talton; Thompson; Uresti; Villarreal; West; Wilson.

Present, not voting — Mr. Speaker(C); Menendez.

Absent, Excused — Alonzo; Bailey; Campbell; Canales; Castro; Cook, R.; Davis, Y.; Driver; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Goodman; Hilderbran; Hodge; Homer; Isett; Jones, D.; Jones, E.; Luna; Mabry; Martinez Fischer; McClendon; Merritt; Miller; Moreno, J.; Noriega; Oliveira; Olivo; Rodriguez; Smithee; Solis; Turner; Wise; Wolens.

Absent — Burnam; Chavez; Coleman; Deshotel; Dunnam; Gutierrez; Moreno, P.; Quintanilla.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Dunnam on motion of Naishtat.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Edwards and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Woolley requested permission for the Committee on Calendars to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, during bill referral today, speakers committee room, for a formal meeting.

HB 2456 - MOTION TO RECOMMIT

Representative Talton moved to recommit **HB 2456** from the Committee on Land and Resource Management to the Committee on Urban Affairs.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, upon final adjournment today, Desk 104, for a formal meeting.

State Health Care Expenditures, Select, upon final adjournment today, Desk 39, for a formal meeting, to consider pending legislation.

FIVE DAY POSTING RULE SUSPENDED

Representative Hartnett moved to suspend the five day posting rule to allow the Committee on Judicial Affairs to consider **HB 3600**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Transportation, upon final adjournment today, Desk 46, for a formal meeting, to consider legislation before the committee.

Regulated Industries, upon final adjournment today, Desk 82, for a formal meeting.

PROVIDING FOR ADJOURNMENT

Representative Uresti moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. Monday, April 28 in memory of Paul "The Big Red One" Peña of San Antonio.

The motion prevailed without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 3.)

INTERPRETER FOR THE DEAF

The interpretation of the proceedings of the house was provided today by Toni Anderson and Brandi Mahon.

ADJOURNMENT

In accordance with a previous motion, the house, at 11:06 p.m., adjourned until 10 a.m. Monday, April 28.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3607 (By Hilderbran), Relating to the calculation of net to land in the ad valorem tax appraisal of open-space land used for wildlife management.
To Local Government Ways and Means.

HB 3612 (By R. Cook), Relating to the creation, administration, powers, duties, operation, and financing of the Garfield Municipal Utility District No. 1.
To Natural Resources.

HCR 204 (By Chavez), Urging Congress to reinstate funding for the EPA Border Fund to \$75 million for fiscal year 2004.
To Border and International Affairs.

HCR 206 (By Bonnen and Capelo), Directing the TCEQ to implement changes adopted by EPA in 2002 relating to the review of sources of air contaminants.
To Environmental Regulation.

HCR 208 (By Gallego), Requesting Congress to direct the National Park Service, U.S. Department of the Interior, to acquire concurrent legislative jurisdiction for Big Bend National Park and the Rio Grande Wild and Scenic River.

To State Cultural and Recreational Resources.

HCR 209 (By Ritter), Granting Commercial Indemnity Insurance Company permission to sue the State of Texas and the Texas Building and Procurement Commission.

To Civil Practices.

SB 280 to Economic Development.

SB 381 to Public Health.

SB 624 to State Cultural and Recreational Resources.

SB 899 to Natural Resources.

SB 933 to Public Education.

SB 1010 to Civil Practices.

SB 1017 to Civil Practices.

SCR 27 to Licensing and Administrative Procedures.

SJR 30 to State Cultural and Recreational Resources.

List No. 2

HCR 211 (By Nixon), Recognizing April 29, 2003, as Holocaust Remembrance Day.

To Rules and Resolutions.

HCR 212 (By Lewis), Congratulating the Area II participants in the Fort Worth Independent School District's 2002 spelling bee contest.

To Rules and Resolutions.

HCR 213 (By Lewis), Honoring Monica DeSantiago and Arthur Moore, Area II champion and runner-up in the Fort Worth Independent School District 2003 spelling bee.

To Rules and Resolutions.

HCR 214 (By Lewis), Honoring Alexis Whiteside and Shonte Roberts for their achievements in the Fort Worth Independent School District 2003 spelling bee.

To Rules and Resolutions.

HCR 215 (By Lewis), Honoring Vanessa Norris and James Kemp, Area III champion and runner-up in the Fort Worth Independent School District 2003 spelling bee.

To Rules and Resolutions.

HCR 216 (By Lewis), Congratulating the Area III participants in the Fort Worth Independent School District's 2002 spelling bee contest.

To Rules and Resolutions.

HCR 217 (By Lewis), Congratulating the Fort Worth Ambassadors of Christ Christian Academy boys' basketball team on winning the 2002-2003 TAPPS Class 1A state title.

To Rules and Resolutions.

HR 857 (By J. Jones), Recognizing May 1, 2003, as Black Leadership Initiative on Cancer Day in Texas.

To Rules and Resolutions.

HR 906 (By Goolsby), In memory of Cecil Howard Green.

To Rules and Resolutions.

HR 907 (By Goolsby), In memory of Dr. Robert "Bob" Lorenz of Lago Vista.

To Rules and Resolutions.

HR 908 (By Dutton), In memory of Mollie Taylor Stevenson of Houston.

To Rules and Resolutions.

HR 910 (By Crownover), Honoring University of North Texas students who received Barry M. Goldwater Scholarships.

To Rules and Resolutions.

HR 911 (By Peña), Honoring Darlene Jimenez of La Feria for her support of the Red Cross in Iraq.

To Rules and Resolutions.

HR 913 (By Hochberg), In memory of the Reverend Carroll Thomas Cole, Sr., of New Braunfels.

To Rules and Resolutions.

HR 914 (By Geren), Honoring past recipients of the Texas Chiropractic Association's Keeler Plaque.

To Rules and Resolutions.

HR 915 (By Geren), Honoring the Texas Chiropractic Association.

To Rules and Resolutions.

HR 917 (By Laubenberg and Hunter), Honoring Major General Bertus Leroy Sisco of the Texas State Guard.

To Rules and Resolutions.

HR 918 (By Peña and Gutierrez), Commending members of the Edinburg Volunteer Fire Department.

To Rules and Resolutions.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

HB 3533 (By Laubenberg), Relating to the operation and regulation of the workers' compensation system.

To Civil Practices.

List No. 3

HB 3605 (By J. Keffer), Relating to the jurisdiction of a county court at law in Hood County.

To Judicial Affairs.

HB 3606 (By W. Smith), Relating to the boundaries of the Baytown Area Water Authority and the validation of actions taken by the board of directors of the authority.

To Natural Resources.

HB 3608 (By Krusee), Relating to the creation, administration, powers, duties, operation, and financing of the Northeast Williamson County Utility District.

To Natural Resources.

HB 3609 (By Hamilton), Relating to the creation, administration, powers, duties, functions, operations, and financing of the North Hardin Special Utility District.

To Natural Resources.

HB 3610 (By Callegari), Relating to the creation, administration, powers, duties, operation, and financing of the Williamson County Municipal Utility District No. 14.

To Natural Resources.

HB 3611 (By Stick), Relating to the compensation of statutory county court judges in Travis County.

To Judicial Affairs.

HB 3613 (By Marchant), Relating to the Texas Pension Program.

To Pensions and Investments.

SB 122 to Judicial Affairs.

SB 155 to State Cultural and Recreational Resources.

SB 185 to Public Health.

SB 233 to Transportation.

SB 275 to Economic Development.

SB 281 to Economic Development.

SB 283 to Licensing and Administrative Procedures.

SB 285 to Human Services.

SB 331 to State Affairs.

SB 340 to Local Government Ways and Means.

SB 356 to Criminal Jurisprudence.

SB 396 to Public Education.

SB 409 to Border and International Affairs.

SB 470 to State Cultural and Recreational Resources.

SB 518 to Judicial Affairs.

SB 646 to Licensing and Administrative Procedures.

SB 669 to Human Services.

- SB 692** to Public Health.
- SB 699** to Public Education.
- SB 828** to Judicial Affairs.
- SB 854** to Agriculture and Livestock.
- SB 864** to Public Health.
- SB 892** to County Affairs.
- SB 896** to Ways and Means.
- SB 898** to Natural Resources.
- SB 919** to State Affairs.
- SB 953** to Natural Resources.
- SB 995** to Business and Industry.
- SB 1024** to Public Health.
- SB 1157** to Judicial Affairs.
- SB 1165** to Juvenile Justice and Family Issues.
- SB 1179** to Criminal Jurisprudence.
- SB 1182** to Public Health.
- SB 1194** to Human Services.
- SB 1204** to Human Services.
- SB 1225** to Public Health.
- SB 1251** to Licensing and Administrative Procedures.
- SB 1261** to Regulated Industries.
- SB 1271** to Regulated Industries.
- SB 1347** to Insurance.
- SB 1380** to Licensing and Administrative Procedures.
- SB 1400** to Public Health.
- SB 1418** to State Affairs.
- SB 1419** to Public Health.
- SB 1449** to Elections.
- SB 1489** to Human Services.
- SB 1501** to Juvenile Justice and Family Issues.
- SB 1549** to Public Health.
- SB 1564** to County Affairs.
- SB 1647** to Licensing and Administrative Procedures.
- SB 1689** to Urban Affairs.

SB 1694 to State Affairs.

SB 1696 to Pensions and Investments.

SB 1764 to Public Health.

SB 1803 to Public Health.

SB 1829 to Regulated Industries.

SB 1889 to Judicial Affairs.

SB 1892 to Land and Resource Management.

SB 1896 to Law Enforcement.

SCR 46 to Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 29

HCR 159, HCR 203, HCR 205

Senate List No. 19

SB 260, SB 416

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Friday, April 25, 2003

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 190 Dunnam **SPONSOR:** Averitt
In memory of B. R. Ralston "Boots" Douglas of Lacy-Lakeview.

HCR 191 Dunnam **SPONSOR:** Averitt
Honoring the First Baptist Church of Mart on its 125th anniversary.

SB 122 Lindsay
Relating to jury service in certain counties by persons removed from a jury panel.

SB 155 Zaffirini

Relating to the protection and use of public freshwater areas; providing a penalty.

SB 275 Nelson

Relating to the abolition of the Texas Department of Economic Development and the transfer of certain of its functions and the functions of the Texas Aerospace Commission to the Texas Economic Development Office.

SB 340 Staples

Relating to the rendition of property for ad valorem tax purposes; providing civil penalties.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Friday, April 25, 2003 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

LOCAL AND UNCONTESTED CALENDAR

HB 43 Chisum SPONSOR: Armbrister
Relating to the funding of and the making of grants by the Texas Council on Environmental Technology.

HB 535 Cook, Robby SPONSOR: Armbrister
Relating to a name change for and a change in the terms of the board of directors of the Colorado Valley Groundwater Conservation District.

HB 1011 Hochberg SPONSOR: Duncan
Relating to postconviction DNA testing.

HB 1236 Hopson SPONSOR: Whitmire
Relating to information required to be placed in a pen packet accompanying a defendant on transfer from county jail to the Texas Department of Criminal Justice.

HB 1508 Flores SPONSOR: Fraser
Relating to the regulation of certain occupations by the Texas Real Estate Commission.

SB 185 Janek
Relating to standing water as a nuisance.

SB 233 Fraser

Relating to the designation of a portion of State Highway 195 as the Phantom Warriors Highway.

SB 281 Nelson

Relating to the continuation of the Council on Workforce and Economic Competitiveness as the Texas Workforce Investment Council and to the functions performed by the council.

SB 283 Jackson

Relating to the continuation and functions of the Texas Board of Architectural Examiners, including functions affecting architects, landscape architects, and interior designers; providing a criminal penalty.

SB 285 Nelson

Relating to the administration and functions of the Texas Department of Human Services.

SB 356 Janek

Relating to forensic anthropologists and to an inquest when a body part is found.

SB 518 Duncan

Relating to the qualifications for service as a grand or petit juror and challenges for cause.

SB 646 Wentworth

Relating to the security required to contest an application for certain alcoholic beverage licenses.

SB 669 Ogden

Relating to the investigation of certain reports of child abuse or neglect.

SB 692 Madla

Relating to emergency medical services providers reporting certain information to the Texas Department of Health.

SB 828 Whitmire

Relating to the supplemental salaries of district judges in Harris County.

SB 854 Madla

Relating to the sale, distribution, or importation of noxious plants; providing a criminal penalty.

SB 864 Van de Putte

Relating to the promotion of breast-feeding.

SB 892 Bivins

Relating to the appointment of the board of managers of certain emergency communication districts.

SB 896 Bivins

Relating to tax refunds and credits.

SB 898 Averitt

Relating to the applicability of provisions concerning bond approval by the Texas Commission on Environmental Quality to certain water districts.

SB 919 Whitmire

Relating to the kinds of mail service that may be used under the public information law to send a notice or any other document to a person.

SB 953 Madla

Relating to the regulation of stormwater management by certain counties.

SB 995 Williams

Relating to certain changes to the uniform law on secured transactions.

SB 1024 Madla

Relating to admission of certain nonresident patients to state chest hospitals.

SB 1157 Averitt

Relating to the reporting duties of the attorney general.

SB 1165 Barrientos

Relating to authorized costs and fees in Title IV-D cases.

SB 1179 West

Relating to authorizing the governor to grant pardons to persons who have received deferred adjudication.

SB 1182 Deuell

Relating to local area service planning by local mental health or mental retardation authorities.

SB 1194 Carona

Relating to the regulation of certain facilities, homes, and agencies that provide child-care services.

SB 1204 Lindsay

Relating to the inspection of, and enforcement of laws relating to, nursing homes and intermediate care facilities.

SB 1225 Nelson

Relating to the removal of a body part or tissue from a decedent who died under circumstances requiring an inquest.

SB 1251 Armbrister

Relating to agreements for the electronic processing of certain licenses or permits.

SB 1261 Armbrister

Relating to notice of proposed construction and the marking and location of certain wireless communication facilities.

SB 1271 Armbrister

Relating to incentives to encourage gas utilities to invest in new infrastructure.

SB 1347 Jackson

Relating to rate changes for insurance coverage written through the Texas Windstorm Insurance Association.

SB 1380 Armbrister

Relating to alcoholic beverage industry sponsorship at public entertainment facilities.

SB 1400 Nelson

Relating to the labeling of certain drugs.

SB 1418 Ratliff

Relating to ex officio appointments of members of the Texas Senate to boards and commissions.

SB 1419 Janek

Relating to anatomical specimens and donees of anatomical gifts.

SB 1449 Harris

Relating to conflicts of interest involving lobbyists.

SB 1501 Janek

Relating to the manner of payment of child support to a local registry.

SB 1549 Nelson

Relating to requiring that certain individuals who provide nursing services in a nursing institution receive annual training in caring for people with dementia.

SB 1564 Madla

Relating to records and proceedings held in auxiliary facilities outside certain county seats.

SB 1647 Staples

Relating to a timeshare developer's ability to complete certain documents.

SB 1689 Gallegos

Relating to the relocation or replacement of a water or sanitation sewer lateral on private property by a home-rule municipality.

SB 1694 Shapiro

Relating to state agency internal auditing.

SB 1696 Wentworth

Relating to the issuance of obligations by certain municipalities to pay unfunded liabilities to public pension funds.

SB 1764 Deuell

Relating to releasing personal information of former residents of mental health facilities for the purposes of preparing grave markers.

SB 1803 Duncan

Relating to licensing food manufacturers, food wholesalers, and warehouse operators under the Texas Food, Drug, and Cosmetic Act.

SB 1829 Averitt

Relating to the designation and obligations of a telecommunications provider of last resort and to the recovery of certain costs incurred in transitioning to a successor utility.

SB 1889 Staples

Relating to the appointment of a bailiff for the 411th District Court.

SB 1892 Hinojosa

Relating to the lease and use for economic development purposes of certain property transferred by the State of Texas to the City of Corpus Christi.

SB 1896 Whitmire

Relating to the authority of a peace officer to make a warrantless arrest when a person confesses to committing a felony.

Respectfully,

Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas
Friday, April 25, 2003 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 110 Staples
Relating to the creation of the offense of failing to report the commission of a felony.

SB 252 Staples
Relating to the registration of mortgage bankers.

SB 463 Janek
Relating to structures that constitute insurable property under the Texas Windstorm Insurance Association.

SB 930 Shapiro
Relating to the liability of school employees.

SB 943 Williams
Relating to an exemption from the private security law for persons who furnish certain information regarding a business or governmental entity.

SB 945 Ogden
Relating to the manner of issuance of, and use of information in an application for, a driver's license or personal identification certificate issued by the Department of Public Safety of the State of Texas.

SB 1012 West
Relating to the placement of electronic monitoring devices in the rooms of certain residents in assisted living facilities.

SB 1073 West
Relating to convictions barring employment in certain facilities serving the elderly or persons with disabilities.

SB 1074 West
Relating to reports and investigations of abuse and neglect in nursing facilities.

SB 1184 Deuell
Relating to the enforcement of commercial motor vehicle safety standards.

SB 1232 Wentworth

Relating to school district job postings.

SB 1265 Armbrister

Relating to prosecution of environmental crimes.

SB 1272 Armbrister

Relating to the permitting process for the construction of certain concrete plants.

SB 1317 Van de Putte

Relating to the regulation of tattooists, persons who perform body piercing, tattoo studios, and certain body piercing studios; providing criminal penalties.

SB 1409 Deuell

Relating to the regional emergency medical dispatch resource center pilot program.

SB 1445 Averitt

Relating to electronically readable information on a driver's license, commercial driver's license, or personal identification certificate; providing a penalty.

SB 1553 Janek

Relating to fees for copies of birth and death certificates.

SB 1605 Ellis, Rodney

Relating to a revenue bond program for, and to the operation of, the Fair Plan Association.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 24

Agriculture and Livestock - **HB 2372**

Civil Practices - **HB 791**

Corrections - **HB 679, HB 2624, HB 3468**

County Affairs - **HB 249, HB 722, HB 813, HB 1087, HB 1108, HB 1251, HB 1377, HB 1681, HB 1771, HB 1968, HB 2029, HB 2242, HB 2313, HB 2492, HB 2493, HB 2678, HB 2898, HB 2952, HB 3081, HB 3089, HB 3102, HB 3371, HB 3491, HB 3520, HB 3561, HJR 91, SB 850**

Criminal Jurisprudence - **HB 797, HB 830, HB 1425, HB 1895, HB 2256, HJR 44, SB 1224**

Energy Resources - **HB 2006**

Environmental Regulation - **HB 1005, HB 1063, SB 934**

Financial Institutions - **HB 2673**

Higher Education - **HB 1026, HB 2759, HB 3015**

Licensing and Administrative Procedures - **HB 1789**

Local Government Ways and Means - **HB 193, HB 2879**

Natural Resources - **HB 895, HB 1628, HB 3214**

Pensions and Investments - **HB 3237**

Public Education - **HB 5**

Public Health - **HB 1560, HB 2609**

State Health Care Expenditures, Select - **HB 1090, HB 3122**

Transportation - **HB 1732, HB 1733, HB 2321, HB 2905, HB 3052, HB 3085, HB 3191, HB 3292, HJR 1, HJR 80, SB 514, SB 1580, SJR 44**

ENGROSSED

April 24 - HB 21, HB 111, HB 162, HB 177, HB 219, HB 261, HB 292, HB 298, HB 318, HB 335, HB 405, HB 406, HB 408, HB 411, HB 426, HB 443, HB 493, HB 518, HB 547, HB 593, HB 670, HB 725, HB 745, HB 913, HB 975, HB 1037, HB 1077, HB 1125, HB 1146, HB 1173, HB 1199, HB 1202, HB 1204, HB 1218, HB 1324, HB 1330, HB 1370, HB 1420, HB 1458, HB 1549, HB 1567, HB 1616, HB 1770, HB 1856, HB 2169, HB 2723, HB 3484

ENROLLED

April 24 - HCR 210

SENT TO THE GOVERNOR

April 24 - HCR 85, HCR 210